DEBATES IN CONGRESS.

PART I. OF VOL. XI.

REGISTER

OF

DEBATES IN CONGRESS,

COMPRISING THE LEADING DEBATES AND INCIDENTS

OF THE SECOND SESSION OF THE TWENTY-THIRD CONGRESS:

TOGETHER WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND THE

LAWS, OF A PUBLIC NATURE, ENACTED DURING THE SESSION:

WITH A COPIOUS INDEX TO THE WHOLE.

VOLUME XI.

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REGISTER OF DEBATES IN CONGRESS.

TWENTY-THIRD CONGRESS....SECOND SESSION.

FROM DECEMBER 1, 1834, TO MARCH 3, 1835.

DEBATES IN THE SENATE.

LIST OF THE SENATORS.

MAINE—Peleg Sprague, Ether Shepley.
NEW HAMPSHIRE—Samuel Bell, Isaac Hill.
MASSACHUSETTS—Nathaniel Silsbee, Daniel Webster.
RHODE ISLAND—Nehemiah R. Knight, Asher Robbins.
CONNECTICUT—Gideon Tomlinson, Nathan Smith.
VERMONT—Samuel Prentiss, Benjamin Swift.
NEW YORK—Silas Wright, N. P. Tallmadge.
NEW JERSEY—T. Frelinghuysen, S. L. Southard.
PENNSYLVANIA—Jas. Buchanan, Samuel McKean.
DELAWARE—John M. Clayton, Arnold Naudain.
MARYLAND—Robert H. Goldsborough, Joseph Kent.
VIRGINIA—B. W. Leigh, John Tyler.
NORTH CAROLINA—Bedford Brown, W. P. Mangum.
SOUTH CAROLINA—J. C. Calhoun, William C. Preston.
GEORGIA—Alfred Cuthbert, John P. King.
KENTUCKY—George M. Bibb, Henry Clay.
TENNESSEE—Felix Grundy, Hugh L. White.
OHIO—Thomas Ewing, Thomas Morris.
LOUISIANA—G. A. Waggaman, Alexander Porter.
INDIANA—Wm. Hendricks, John Tipton.
MISSISSIPPI—George Poindexter, John Black.
ILLINOIS—Elias K. Kane, John M. Robinson.
ALABAMA—William R. King, Gabriel Moore.
MISSOURI—Thomas H. Benton, Lewis F. Linn.

MONDAY, DECEMBER 1, 1834.

At 12 o' clock the Senate was called to order by the VICE PRESIDENT of the United States, Hon. MARTIN VAN BUREN.

A quorum of members being present—

Mr. WHITE submitted the following motion:

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business; which was agreed to.

Mr. WHITE submitted the following resolution:

Resolved, That a committee be appointed, on the part of the Senate, to join such committee as may be appointed by the House of Representatives, to wait on the President of the United States, and inform him that quorums of the two Houses have assembled, and that Congress is ready to receive any communication he may be pleased to make. The resolution was agreed to.

Mr. CLAY then moved that the Senate waive balloting for the committee, and that the presiding officer appoint the same; which was agreed to; and Messrs. WHITE and SWIFT were appointed.

Mr. KNIGHT offered the following resolution, which lies one day on the table:

Resolved, That each Senator be supplied, during the present session, with three such newspapers, printed in any of the States, as he may choose: *Provided*, the same be furnished at the usual rate for the annual charge of such papers: *And provided, also*, that if any Senator shall choose to take any newspapers, other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

Mr. GRUNDY, from the Committee on the Post Office and Post Roads, offered the following resolution:

Resolved, That the 34th rule of the Senate, so far as respects the Committee on the Post Office and Post Roads, be suspended; and that the present Committee on the Post Office and Post Roads be continued, with all the powers vested in them, and subject to all the duties enjoined on them, by the resolution of the Senate of the 28th day of June, 1834.

Mr. GRUNDY remarked that the resolution was one which he could find no precedent to sanction. But he offered it at this time, owing to the peculiar situation of the committee. They had been assiduously engaged, for some time past, collecting testimony and other evidence connected with their duties, but that they would not be able to make a satisfactory report for some time to come. Some of the witnesses for examination would be here to-morrow, and he was therefore desirous that the Senate should suspend the rule which requires the standing committees to be balloted for at the commence-

ment of each session, so far as the same applies to the Committee on the Post Office. He asked the immediate consideration of the resolution; which was agreed to, and it was then adopted.

A message was received from the House of Representatives, by Mr. FRANKLIN, their Clerk, stating that a quorum of members of that House was present, and that a committee had been appointed to join the Senate committee, for the purpose of informing the President of the United States that the two Houses were organized, and ready to receive his communications.

The Senate then adjourned.

TUESDAY, DECEMBER 2.

Mr. MORRIS, of Ohio, attended to-day, and took his seat.

Mr. WHITE, from the joint committee appointed to wait on the President of the United States, and inform him that quorums of the two Houses of Congress had assembled, and were ready to receive any communication he might be pleased to make, reported that they had performed the duty assigned them, and that the President would, at 12 o'clock this day, make a communication to Congress in writing.

The annual message of the President of the United States was then handed to the Chair, by Mr. DONELSON, his private secretary; and after being read,

On motion of Mr. WHITE, 5,000 extra copies of the message, and 1,500 of the accompanying documents, were ordered to be printed for the use of the Senate. (*See Appendix.*)

The resolution submitted yesterday by Mr. KNIGHT, relative to supplying the Senators with newspapers, was taken up.

Mr. KING, of Georgia, said that, on inquiry, he found that resolutions, such as the one before the Senate, had been passed by both Houses of Congress for a number of years past, without any interruption to this constant practice. It seemed, however, that, at one period, in the purer days of the republic, this practice was thought improper, and if it was so then, it was equally so now. He hoped, therefore, that some gentleman who was favorable to the resolution would undertake to show what connexion there was between the progress of legislation and the purchase of newspapers. He thought it would be just as easy to show the necessary connexion between the purchase of newspapers for the use of the members and the purchase of the last Waverley novel, or one of Mrs. Radcliff's works. It was perfectly true that the daily newspapers might contain interesting speculations on political subjects. They did, and so did the writings of Voltaire, Bolingbroke, and other political writers. It was also true that they contained (some of them) the proceedings of Congress, but they did not necessarily contain them. They were perfectly independent of every branch of the Government, and had no possible connexion with their operations. Admitting, said Mr. K., the power on the part of the Senate to subscribe for these papers, was there no such thing as expediency to be considered? What he wished to impress on the minds of every legislator, and every officer of the Government, was, that power ought not to be exercised merely because it was possessed. There was not a more unprofitable expenditure than that for the purchase of newspapers for the members. It had been said that the publications were useful; but how far useful? He would make an application that would be understood. Was there a member of this or of the other House, who had made sufficient progress in political knowledge to qualify him for his station, that did not subscribe for more papers than he had time to read? He answered that there was not one. The expenditure, therefore, would be entirely a useless one. You, sir, continued Mr. K., (addressing the presiding officer,) occupy a station from which you can observe all that passes. You must have seen every day, at 12 o'clock, when members take out their mail, gentlemen taking out of their covers the Lady's Book, or the Mirror, or the Albion, or some fashionable periodical, and looking at some new rondo or fashionable overture, and then folding the work up again, and putting it back on the shoulders of Mr. Barry, in order that it may be conveyed to their wives, or sweethearts, or friends. And thus it is that the revenue is injured, and that the mail stages are improperly burdened. He could not see any connexion between the power of Congress to make appropriations, and the practice of purchasing these periodical publications. The practice of subscribing for particular books, which had prevailed for many years, was last session arrested by the Senate. This was done by the majority, and to that majority the credit was entirely due; for the party with which he was generally in the habit of acting had no power to do either evil or good.

Mr. K. then moved to lay the resolution on the table; but the motion was negatived.

The resolution was then agreed to.

Mr. POINDEXTER submitted the following resolution, which was considered and adopted:

Resolved, That the 34th rule of the Senate, so far as respects the Committee on Public Lands, be suspended; and that the present committee be continued, with all the powers vested in them, and subject to all the duties enjoined on them, by the several resolutions of the Senate at the last session, relative to frauds in the sale of the public lands.

On motion of Mr. POINDEXTER,

The Senate adjourned.

WEDNESDAY, DECEMBER 3.

Mr. BROWN, of North Carolina; Mr. TOMLINSON, of Connecticut; and Mr. SPRAGUE, of Maine, attended to-day, and took their seats.

The CHAIR communicated the annual report of the Secretary of the Treasury on the state of the finances; which, without reading, was, with the accompanying documents, ordered to be printed. (*See Appendix.*)

Mr. POINDEXTER submitted the following resolutions:

Resolved, That the Commissioner of the General Land Office be directed to communicate to the Senate a list of the purchasers of the public lands at the land office in Columbus and Chocshuma, in the State of Mississippi, specifying the name of each original purchaser, and of the assignee or assignees to whom the certificate of purchase may have been endorsed; the quantity of land purchased by each; and the price per acre for each tract, respectively, between the 1st day of October, 1833, and the 1st day of January, 1834.

Resolved, That the said Commissioner be directed to report to the Senate the aggregate number of acres of the public lands offered at public sale, by proclamation of the President of the United States, at each of the land offices in the State of Mississippi, from the 1st day of January, 1833, up to the present time.

After transacting some other business,

The Senate adjourned.

THURSDAY, DECEMBER 4.

Mr. LEIGH, of Virginia, attended to-day, and took his seat.

The following message was received from the President of the United States by Mr. DONELSON, his secretary:

To the Senate of the United States:

I transmit to Congress a communication addressed to me, by Mr. George Washington Lafayette, accompanying a copy of the Declaration of Independence, engraved on copper, which his illustrious father bequeathed to Congress, to be placed in their library, as a last tribute of respect, patriotic love, and affection for his adopted country.

I have a mournful satisfaction in transmitting this precious bequest of that great and good man, who, through a long life, under many vicissitudes, and in both hemispheres, sustained the principles of civil liberty asserted in that memorable declaration, and who, from his youth to the last moment of his life, cherished for our beloved country the most generous attachment.

ANDREW JACKSON.

DECEMBER 4, 1834.

[*The letter enclosed in the above.*]

PARIS, *June* 15, 1834.

SIR: A great misfortune has given me more than one solemn and important duty to fulfil, and the ardent desire of accomplishing with fidelity my father's last will emboldens me to claim the patronage of the President of the United States, and his benevolent intervention, when I am obliged respectfully and mournfully to address the Senate and Representatives of a whole nation.

Our for ever beloved parent possessed a copperplate, on which was inscribed the first engraved copy of the American Declaration of Independence, and his last intention, in departing this world, was that the precious plate should be presented to the Congress of the United States, to be deposited in their library, as a last tribute of respect, patriotic love, and affection for his adopted country.

Will it be permitted to me, a faithful disciple of that American school, whose principles are so admirably exposed in that immortal declaration, to hope that you, sir, would do me the honor to communicate this letter to both Houses of Congress, at the same time that, in the name of his afflicted family, you would present to them my venerated father's gift.

In craving such an important favor, sir, the son of General Lafayette—the adopted grandson of Washington—knows, and shall never forget, that he would become unworthy of it, if he was ever to cease to be a French and American patriot.

With the utmost respect, I am, sir,
Your devoted and obedient servant,
GEORGE W. LAFAYETTE.

To the PRESIDENT *of the United States.*

The resolution submitted yesterday by Mr. POINDEXTER was considered and adopted.

The Senate then adjourned to Monday.

MONDAY, DECEMBER 8.

Messrs. WEBSTER, of Massachusetts; WAGGAMAN, of Louisiana; PRENTISS, of Vermont; KING, of Alabama; and CLAYTON, of Delaware, appeared and took their seats.

The CHAIR communicated the credentials of the honorable JAMES BUCHANAN, elected a Senator by the Legislature of the State of Pennsylvania, to supply the vacancy occasioned by the resignation of the honorable William Wilkins.

After the reception of sundry communications, notices of bills, &c.,

Mr. SOUTHARD submitted the following resolution, which was laid on the table:

Resolved, That the Senate will, on Wednesday next, proceed to the appointment of the standing committees.

The Senate adjourned.

TUESDAY, DECEMBER 9.

A message was received from the House of Representatives, by Mr. Franklin, their Clerk, stating that the House had passed joint resolutions for the appointment of a Library Committee for the two Houses, and for the appointment of two chaplains, of different religious denominations, to serve alternately in each House; both of which resolutions having been concurred in, the Senate proceeded to ballot for three members of the Joint Committee on the Library, to serve on their part; and Messrs. ROBBINS, POINDEXTER, and BIBB, were chosen.

Mr. WEBSTER, in pursuance of notice given, asked and obtained leave, and introduced a bill to provide for the satisfaction of the claims of American citizens for spoliations committed on their commerce by the French, prior to the year 1800; and the bill having been read the first and second time, was referred to a select committee appointed by ballot, consisting of Messrs. WEBSTER, GRUNDY, PRENTISS, PRESTON, and SHEPLEY.

After disposing of some other business—

The Senate adjourned.

WEDNESDAY, DECEMBER 10.

Mr. PRESTON, of South Carolina, attended to-day, and took his seat.

The resolution offered by Mr. SOUTHARD, relative to the appointment of the standing committees, was taken up, and, on motion of Mr. SOUTHARD, amended so as to fix the appointment of the committees for to-morrow, at one o'clock, and carried without a division.

BANK UNITED STATES BRANCH DRAFTS.

The following resolution, submitted yesterday by Mr. BENTON, was taken up for consideration:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate any correspondence with the Bank of the United States on the subject of the branch drafts, and dividends withheld, not heretofore communicated. Also, to inform the Senate whether the directors on the part of the Government have been refused access to the books and accounts of the institution.

Mr. TYLER presumed that no gentleman could have any objection to the passage of the resolution; it was desirable that the information should be obtained. But he felt that it was due to the Committee on Finance to say, that if the honorable gentleman who offered the resolution had waited a few days, the necessity of submitting it would have been entirely obviated. The subject of it had attracted the attention of the committee. It was of considerable importance, and in a few days a full report would be made on the subject by the committee.

Mr. BENTON observed that, under the circumstances, he had no objection that the resolution lie on the table; and made a motion to that effect, which prevailed.

Several bills were taken up in Committee of the Whole, and some other business of minor importance gone through with; when,

On motion of Mr. KING, the Senate proceeded to the consideration of executive business.

When the doors were opened,

The Senate adjourned.

THURSDAY, DECEMBER 11.

STANDING COMMITTEES.

In pursuance of the resolution passed yesterday, the Senate proceeded to ballot for its standing committees; and the ballots resulted in the choice of the following gentlemen, to serve for the present session:

Foreign Relations.—Mr. Clay, chairman; Messrs. King, of Georgia, Mangum, Sprague, Tallmadge.

Committee on Finance.—Mr. Webster, chairman; Messrs. Wright, Tyler, Mangum, Ewing.

Committee on Commerce.—Mr. Silsbee, chairman; Messrs. King, of Alabama, Waggaman, Sprague, Wright.

Committee on Manufactures.—Mr. Frelinghuysen, chairman; Messrs. Morris, Knight, Prentiss, Tyler.

Committee on Agriculture.—Mr. Brown, chairman; Messrs. Kent, Swift, Robinson, Morris.

Committee on Military Affairs.—Mr. Benton, chairman; Messrs. Tipton, Preston, King, of Alabama, Clayton.

Committee on Militia.—Mr. Robinson, chairman; Messrs. Hendricks, McKean, Waggaman, Swift.

Committee on Naval Affairs.—Mr. Southard, chairman; Messrs. Robbins, Tallmadge, Bibb, Black.

Committee on Public Lands.—[The Committee on the Public Lands of the last session was continued for the present session, by a unanimous vote. The members consist of Messrs. Poindexter, chairman; Moore, Prentiss, McKean, and Clay.]

Committee on Private Land Claims.—Mr. Black, chairman; Messrs. Kane, Naudain, Porter, Shepley.

Committee on Indian Affairs.—Mr. White, chairman; Messrs. Tipton, Smith, Swift, Frelinghuysen.

Committee on Claims.—Mr. Bell, chairman; Messrs. Tipton, Naudain, Brown, Shepley.

Committee on the Judiciary.—Mr. Clayton, chairman; Messrs. Preston, Bell, Smith, Leigh.

Committee on the Post Office and Post Roads.—[The Committee on the Post Office and Post Roads of the last session was continued for the present session, by a resolution passed unanimously. The members consist of Messrs. Grundy, chairman; Ewing, Robinson, Knight, Southard.]

Committee on Pensions.—Mr. Tomlinson, chairman; Messrs. Tallmadge, McKean, Prentiss, Preston.

Committee on Roads and Canals.—Mr. Hendricks, chairman; Messrs. Kent, Robinson, Robbins, McKean.

Committtee on the District of Columbia.—Mr. Tyler, chairman; Messrs. Kent, Bibb, Southard, Tomlinson.

Committee on Revolutionary Claims.—Mr. Moore, chairman; Messrs. Smith, White, Leigh, Frelinghuysen.

Committee to Audit and Report the Contingent Expenses of the Senate.—Mr. Knight, chairman; Messrs. Tomlinson, Morris.

Committee on Engrossed Bills.—Mr. Shepley, chairman; Messrs. Robinson, Morris.

On motions of the several chairmen of the standing committees just appointed, the different parts of the President's message were appropriately referred.

The Senate adjourned over to Monday next.

MONDAY, DECEMBER 15, 1834.

The following Senators appeared and took their seats, viz: from South Carolina, Mr. CALHOUN; from Louisiana, Mr. PORTER; from Mississippi, Mr. BLACK; from Missouri, Mr. LINN.

Also, JAMES BUCHANAN, elected a Senator from Pennsylvania, to fill the vacancy occasioned by the resignation of Mr. WILKINS, appeared, was qualified, and took his seat.

Mr. BENTON presented a certificate of the election of Mr. LINN, as a Senator from the State of Missouri.

Both these gentlemen accordingly took the customary oath.

LAFAYETTE.

The following message was received from the President of the United States:

To the Senate of the United States:

The joint resolutions of Congress, unanimously expressing their sensibility on the intelligence of the death of General Lafayette, were communicated, in compliance with their will, to George Washington Lafayette, and the other members of the family of that illustrious man. By their request, I now present the heartfelt acknowledgment of the surviving descendants of our beloved friend, for that highly valued proof of the sympathy of the United States.

ANDREW JACKSON.

WASHINGTON, *December* 10, 1834.

WASHINGTON, *June* 27, 1834.

TO GEORGE WASHINGTON LAFAYETTE, *and the other members of the family of the late General Lafayette:*

In compliance with the will of Congress, I transmit to you the joint resolutions of the two Houses, unanimously expressing the sensibility with which they received the intelligence of the death of "General Lafayette, the friend of the United States, the friend of Washington, and the friend of liberty;" and I also assure you of the condolence of this whole nation in the irreparable bereavement which by that event you have sustained.

In complying with the request of Congress, I cannot omit the occasion of offering you my own condolence in the great loss you have sustained, and of expressing my admiration of the eminent virtues of the distinguished patriot, whom it has pleased Providence to remove to his high reward.

I also pray you to be persuaded that your individual welfare and prosperity will always be with me objects of that solicitude which the illustrious services of the great friend and benefactor of my country are calculated to awaken.

ANDREW JACKSON,
President of the United States.

LA GRANGE, *October* 21, 1834.

SIR: The resolution of Congress, communicated to me by your honored favor of the 27th of June, that glorious testimony of American national affection for my beloved and venerated father, has been received by his family with the deepest sense of the most respectful, and, give me leave to say, filial gratitude.

And now, sir, that we experience the benefits of such a high and soothing sympathy, we find ourselves called to the honor of addressing to the people and Congress of the United States our heartfelt and dutiful thanks. Sir, you were the friend of my father, and the kind letter which accompanied the precious message seems to be for us a sufficient authorization to our claiming once more your honorable assistance, for the accomplishment of a duty dear to our hearts.

We most fervently wish that the homage of our everlasting devotion to a nation, whose tears have deigned to mingle with ours, should be offered to both Houses of Congress. Transmitted by you, sir, that homage shall be rendered acceptable; and we earnestly pray you, sir, to present it in our name. Our gratitude shall be for ever adequate to the obligation.

The resolution which so powerfully honors my father's memory shall be deposited, as a most sacred family property, in that room of mourning where once his son and grandsons used to receive, with avidity, from him, lessons of patriotism and active love of liberty: there, the daily contemplation of it will more and more impress their minds with that encouraging conviction, that the affection and esteem of a free nation is the most desirable reward that can be obtained upon earth.

With the utmost respect, sir, I have the honor to be
Your devoted and obedient servant,
GEORGE W. LAFAYETTE.

After disposing of several bills, petitions, &c.

The CHAIR communicated a report from the Com-

missioner of the General Land Office, made in compliance with a resolution of the Senate of the 4th instant, relative to sales of public lands, at two land offices in Mississippi.

Mr. POINDEXTER made a few remarks on the singularity of the fact that this report contained matter which was not called for by the resolution to which it was a response, and which might be truly called extra-official. He also expressed surprise that a resolution sent from the Senate on the 4th, should not have reached the Land Office before the 8th. Either the Secretary must have been very remiss in sending the resolution to the Land Office, or the Commissioner must have been absent from his office on some very pressing business, which stood between him and the execution of his duties. He was unwilling to believe that the Secretary had caused the delay of four days in sending this resolution to a Department which was within sight of the Capitol, and he hoped, as he intended to bring the subject before the Senate, that the Secretary would explain the cause of the delay.

After an inaudible remark from the CHAIR,

The report was ordered to be printed.

LAFAYETTE.

The message received from the House of Representatives last week, informing the Senate of the proceedings taken by the House, in obedience to a resolution of the last session, to pay honors to the memory of General Lafayette, was taken up and concurred in; and a committee of five members was ordered, on motion of Mr. WEBSTER, to be appointed by the CHAIR, on the part of the Senate.

On motion of Mr. POINDEXTER, the Senate then proceeded to the consideration of executive business; and, after the doors were reopened,

The Senate adjourned.

TUESDAY, DECEMBER 16.

IMPROVEMENT OF THE WABASH.

On motion of Mr. TIPTON, the resolution submitted by him a few days since, directing an inquiry into the expediency of making an appropriation to improve the navigation of the river Wabash, was taken up for consideration.

Mr. TIPTON said: The resolution now before the Senate is to renew an effort to obtain an appropriation to improve the navigation of the Wabash. It is with great reluctance I obtrude myself upon the notice of the Senate; but this subject is of such vital importance to my constituents that I cannot let it rest without making another effort to serve them. The feeble state of my health will compel me to condense what I desired to say at this time in relation to the subject. Bills have passed both branches of Congress, at different sessions, appropriating money to improve that river; but to these bills the President of the United States has refused his sanction, under a mistaken idea. I have no doubt of the claims of the river, and the facts of the case. I consider it due to myself, and not disrespectful to the President of the United States, to state that I differ from him in opinion in relation to the power to appropriate money to improve the navigation of our rivers. He does not feel authorized to sanction appropriations to improve rivers, unless it be such as lead to ports of entry established by law, and has more than once refused his sanction to bills for improving the Wabash.

I am confident, said Mr. T., that the power exists to appropriate money to improve our rivers in any portion of the United States, where the business of the country and the capacity of the rivers require improvement. I have no fears in trusting all the money in the Treasury to the discretion of the appropriating power, to be applied to such objects as the interests of the country may require. Under the supervision and control that the people hold over their public servants through the ballot-box, all is perfectly safe.

The President, in his message returning the last bill to the Senate, has signified that, if a port of entry were established on the Wabash, it would bring an appropriation to improve this river within the rule that he has laid down for the government of his own action in such cases. I consider it due to myself, and not disrespectful to the President, to state that I differ from him on this subject; and, without being able to perceive either the wisdom or the justice of this rule, I have determined, from the necessities of the case, to conform to it, so far as to ask the Senate to pass bills establishing a port of entry at Lafayette, and of appropriating money to improve the river, and hope that honorable Senators will look at the justice of this application, and give it their sanction.

At the last session of Congress the bill for improving the navigation of the Wabash was laid before the President on the 28th of June, two days before Congress adjourned; and on the 30th of that month, the last day of the session, we received a verbal message, through our committee, informing us that the President of the United States had approved and signed all the bills passed at the then present session of Congress, except that for improving the navigation of the Wabash; and as that bill involved a question of importance, it was retained for further consideration. In his message returning this bill to the Senate, a few days ago, the President stated that he had not been able to satisfy his mind that the bill ought to pass; and he goes on to state his objections against extravagant appropriations for internal improvement, and he argues over again the case of the Maysville road bill, but says not a word as to the merits or demerits of the Wabash bill, against which I contend that no sound reason can be produced, drawn from the constitution or practice of this Government from its foundation; nor am I able to discover any necessary connexion between the Maysville road bill and the Wabash bill. The former provides for a local object, the construction of a road from one point to another within a State; the latter provides means to improve an important river, the line of demarcation between two States; a reserved public highway for all the people of the United States, as I shall presently show.

The common phrase, internal improvement, we generally use in speaking of roads and canals. These may be local: a road or a canal can be constructed in any direction: through a State or county; but, sir, improving the navigation of our rivers is very different. The rivers of the United States are the common property of all; every body may navigate them without let or hindrance; and that the joint funds of the nation should improve them, cannot, in my judgment, be denied. This principle has been acted on from our earliest history, and I know of no case where the General Government has refused to improve a river of so much importance to any portion of our country as the Wabash is to the Western States.

The appropriation now asked is to be expended, in connexion with others, to open a line of water communication form New York to New Orleans. It should be borne in mind that large appropriations have been made to improve the navigation of the Hudson, the Mississippi, and the Ohio rivers. The New York canal will connect the Hudson with Lake Erie at Buffalo; the Wabash and Erie canal is to connect Lake Erie, through the Miami river, with the Wabash, at or near the town of Lafayette. The Wabash and Erie canal is upwards

of 200 miles long; 80 miles of this canal lies within the State of Ohio, and 130 in the State of Indiana. This canal is now being constructed; 35 miles of that part of the canal that lies in Indiana is finished, and will be filled with water next spring. Upwards of forty miles more is now under contract, and to be completed next fall; and it is in contemplation to put the balance of this canal within Indiana under contract next season. There can be no reasonable doubt but Ohio will finish her portion of this noble work without unnecessary delay, and we look with confidence to the completion of this work within three years.

Following down the Wabash, from the intersection of our canal at Lafayette to the rapids at White river, where the improvement contemplated in the bill is to be made, the distance is 300 miles, navigable for steamboats most of the year; and from these rapids to the Ohio is about 100 miles, also navigable. By improving these rapids, and the completion of our canal, we will open a water communication from New York to New Orleans, the shortest and the best that can ever be constructed across this continent. Is such a work not worthy the attention of the General Government, or is the door of appropriation now to be closed on the application of Indiana and Illinois for aid to complete this important public work?

The Wabash is a reserved public highway, by compact between the United States, and the Commonwealth of Virginia, at the time Virginia ceded the Northwest Territory to the United States; and by an ordinance of Congress of 13th July, 1787. The 4th article of that ordinance concludes thus: "The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and for ever free, as well to the inhabitants of the said Territory as to the citizens of the United States, and those of any other State that may be admitted into this confederacy, without any tax, impost, or duty therefor."

By an act of 2d of March, 1827, Congress granted land to aid in constructing a canal, to connect, at navigable points, the waters of the Wabash with those of Lake Erie, and reserved the right to the United States to transport troops and munitions of war on the canal free of any charge. This canal is now in rapid progress of construction. It lies within the limits of two States, and embraces what was the principal carrying place between the Mississippi and the St. Lawrence, at the time of forming the act of cession and ordnance above quoted. The United States has reserved the right to use both our river and canal free of any charge. Can it be unreasonable or unconstitutional to call on the United States to aid in improving the navigation of this river?

At the point where this appropriation is to be expended, the Wabash is the line of demarcation between Indiana and Illinois. Each State has made an appropriation to aid in improving the rapids, but these young States have not the ability to complete this work. Indiana has contracted a debt, for the prosecution of the canal, of near half a million of dollars; it may be necessary to extend this debt to double that amount this year; and our people very naturally, and I think very properly, look to the General Government, the great landholder in the West, to improve these rapids with the joint funds of the nation, as it will evidently benefit the whole.

The State of Indiana pays into the United States treasury, as a tax or duty on goods imported from foreign markets, and consumed by her citizens, as large a sum as any State in the Union of the same population, beside what her citizens pay for the public lands bought for cultivation. She has no harbors to improve, except that of Trail creek, on Lake Michigan; no breakwaters, to draw millions from the treasury in their construction. She asks nothing but aid to improve the navigation of her river, which the United States have reserved the right to navigate free of any charge. No session of Congress passes but other States are provided with money to improve their rivers. The Hudson, James, Savannah, Red river, and Cumberland, with a long list of other smaller streams that I will not take the time of the Senate to read, have been improved by the General Government.

During the session of Congress of 1831-'32, a bill passed, and was approved, authorizing the improving of the Monongahela and other rivers, to points where there were no ports of entry; and the Globe, in apologizing for that approval, says: "if the purposes contemplated by Congress can be accomplished, and the three rivers mentioned made navigable to the points in question, then ports of entry will of course be established at the head of navigation." I ask, why not be thus liberal with the Wabash? That river is larger than the Monongahela; waters a more extensive territory of the finest soil in the world, with a numerous population to be provided for.

To show what has been done elsewhere, I have procured a statement of appropriations for improving, made in 1832 and 1834.

Appropriations for improving rivers, made in 1832.—*Laws 1st Sess. 22d Congress,* 1832, *page* 134.

Kennebunk river, Maine,	$ 2,600
Pascagoula river,	15,900
Red river, Louisiana and Arkansas,	22,628
Berwick branch of the Piscataqua river,	250
Entrance of Genesee river,	16,000
Cape Fear river, below Wilmington, N. C.	28,000
Ohio, Missouri, and Mississippi rivers,	50,000
The President authorized to extend the steamboat navigation from Pittsburg to the Cumberland road at Brownsville;* also the Missouri, from its junction with the Mississippi to the mouth of the Kansas river; and also the upper Mississippi, from St. Louis to Galena, with power to remove all obstructions in the channel, &c. &c.	
The Arkansas river,	15,000
The mouth of Conneaut creek, Ohio,	7,800
Removing obstructions at the mouth of the Ashtabula creek, Ohio,	3,800
Removing obstructions at the mouth of the Grand river, Ohio,	2,600
Removing sand-bar, mouth Black river,	8,000
Mouth Huron river,	1,500
Cumberland river,	30,000
Savannah river,	25,000

Appropriations for improving rivers, made in 1834.—*Laws 1st Sess. 23d Congress, page* 68.

Cape Fear river, below Wilmington, N. C.	$ 5,234
Ohio, Missouri, and Mississippi rivers,	50,000
St. Mark's river, Florida,	4,600
Red river,	50,000
Savannah river, in removing obstructions from the city of Savannah to its mouth,	30,000
Genesee river, for completing the works thereon,	20,000
Grand river, Ohio, for repairing and securing the works,	10,000
Black river, for securing the works,	5,000
Huron river, Ohio,	6,700

* This appropriation is for the improvement of the Monongahela river, upon which there never has been any port of entry established.

Ashtabula creek, Ohio, - - -	5,000
Cumberland river, - - - -	30,000
Hudson river, (page 103) - - -	70,000

The statement shows that millions on millions are appropriated to improving rivers and small streams east of the mountains. If but 10, 20, or 50 miles long, you call them rivers, and we improve them. I do not mention this in a spirit of complaint, but to show the contrast. We have our 500 miles of Wabash, 1000 miles of Ohio, and 2000 miles of Mississippi: these, we think, present equal claims to attention, and I feel it to be my duty to urge them on the attention of Congress. All other rivers have been improved except the Wabash, while bills for that river are vetoed or withheld. Now, is this necessary, is it just, or proper, and do those in power think that my constituents will remain for ever silent under such circumstances? I have recently been taught that a system is practised to keep men silent that incline to speak out. When Congress adjourned last summer, I addressed a circular to my constituents, informing them what had been done for their benefit, and how much was left undone, but said nothing flattering of the treatment the Wabash bill had met with, and concluded by advising the people to correct these wrongs through the ballot-box.

After the publication of my circular, the Globe, a newspaper published in this city, devoted three or four of its long columns to abusing me, because I had dared to address my constituents. But I do not feel injured by the attack of the Globe: the writer in that paper must establish a character for truth and veracity among the people of Indiana before he need expect his word to be taken against one that they have known long, and known well. The writer of the article in the Globe has mistaken his man; the press, nor any other power that can be brought to bear upon me, cannot intimidate or keep me silent while the interest of Indiana is at stake; and inth is case of an appropriation to improve the Wabash river, I contend that justice has not been done her.

I do not intend, Mr. President, to charge the Chief Magistrate with intentional injustice, but only to say that he has acted under a mistaken apprehension of the facts, which has worked injustice to my constituents.

A President, or any other public officer, is but a transient being; here to-day, gone to-morrow; but the principles of justice on which our Government should be administered are immutable, and will endure in all time to come. Every public man owes a heavy responsibility to his constituents, and I would have felt unworthy the confidence reposed in me, if I had remained silent on a subject so deeply interesting to those that I, in part, have the honor to represent here.

The term of service of our present Chief Magistrate is drawing to a close. What he has done, he has done. It will go down to posterity, and form his political character; and God knows I would not, if I could, strip a laurel from his brow. But this subject of improving our rivers cannot rest here; the people should take that matter into their own hands, and, in selecting a successor to the present Chief Magistrate, before they cast their votes, ascertain whether he is for or against internal improvement. No, sir, that is too broad a term; it can be construed to mean any thing or nothing, or explained away. The voters should ascertain whether candidates are for or against improving our rivers; and no one holding the opposite doctrine need expect one-fourth of the votes in the valley of the Mississippi.

I hope the resolution, and the one for establishing the port of entry at Lafayette, will be adopted, and that both Congress and the President will agree that the General Government should aid in improving the navigation of the Wabash; for I am unwilling to believe, without more evidence than is now before me, that there is a disposition in either to prevent it.

Mr. WEBSTER asked for the reading of the resolution; which having been read,

Mr. W. said he had asked for the reading of the resolution, because he had not understood whether the subject-matter under consideration was, as it then appeared to be, simply an appropriation to improve the navigation of the river Wabash, or whether it was the other resolution submitted by the gentleman from Indiana, [Mr. TIPTON,] instructing the Committee on Commerce to inquire into the expediency of establishing a port of entry on that river. That other resolution was for the purpose of doing away, as he understood, the constitutional objections to an appropriation for the improvement contemplated. If the last-named resolution had been called up, it was his intention to say something on the subject. Whether it be constitutional for Congress to make an improvement on a particular river, or whether, in order to make that improvement constitutional, a port of entry must first be established on the river, was a subject on which he should take the liberty to express his views at a proper time. With regard to the resolution under consideration, he had no objection to its adoption. He had no more doubt of the right of Congress to improve the navigation of the Wabash, than to appropriate money for the Delaware breakwater, for the improvement of Boston harbor, to erect fortifications, to improve a harbor on Lake Erie, or to build a light-house at the mouth of the Balize. He thought so at the last session of Congress, and thought so still. If the honorable gentleman thought Congress had better pass another law to make the improvement he had in view, he would not object to the measure; but he had no hopes of the passage of another law on the subject, with better success than the one of the last year, until there was more unanimity on the subject in the public councils. When the other resolution came up for consideration, he should take the liberty to express his views briefly in relation to it.

The resolution was then adopted without a division.

ELECTION OF CHAPLAIN.

The Senate then proceeded to ballot for Chaplain, as the special order of the day, which resulted as follows:

FIRST BALLOT.

Mr. Hatch, - - - -	22
Perry, - - - -	7
Stockton, - - - -	1
Slicer, - - - -	6
Ungerer, - - - -	3
Brook, - - - -	2
Sargent, - - - -	1
Higby, - - - -	3
	45

23 necessary to a choice.

SECOND BALLOT.

Mr. Hatch, - - - -	22
Perry, - - - -	9
Slicer, - - - -	7
Tipton, - - - -	1
Higby, - - - -	1
Sargent, - - - -	1
Stockton, - - - -	1
Brook, - - - -	1
	43

22 necessary to a choice.

Mr. Hatch, having received a majority of the votes, was declared to be duly elected Chaplain, on the part of the Senate, for the session.

PUBLIC LANDS.

The bill introduced, on leave, by Mr. CLAY, to appropriate, for a limited time, the proceeds of the sales of the public lands, and for other purposes, came up on its second reading.

Mr. CLAY observed that the bill was in the same shape exactly that it was when before the Committee on Public Lands at the last session, and as they reported it. He therefore thought it wholly unnecessary to lay the subject again before the committee, for they were sufficiently burdened with other matters; but if it was the pleasure of the Senate to do so, he had no objection to agree to it.

Mr. KING, of Alabama, said that it was departing from the usual course to make so important a subject the order of the day, without its being first referred to a committee. He did not know how the committees were at present constituted, but he presumed there must be some changes in them, as there were many new members who might feel disposed to examine the measure in its details.

Mr. CLAY repeated that the bill was identically the same as the one of last year. The Committee on Public Lands was composed of precisely the same members as composed the committee of the last session. That committee had made a very able and elaborate report, which was in the hands of every gentleman. He could not, therefore, see any possible reason why the bill should undergo a second examination by the same committee.

Mr. KING then withdrew his objections, and the bill was made the order of the day for next Tuesday week.

The Senate then adjourned.

WEDNESDAY, DECEMBER 17.

FRENCH SPOLIATIONS PRIOR TO 1800.

The bill to provide for the satisfaction of claims due to certain American citizens for spoliations committed on their commerce prior to the 30th day of September, 1800, coming up for consideration—

Mr. WEBSTER rose and said, this subject had been often before the Senate, in various forms, and he trusted that its general character was well understood by every member of the Senate. He therefore should not repeat what had been said on former occasions, in presenting the question to the consideration of this body. Several reports had been made, going much at large into the merits of these claims, and setting forth the obligation of making to the claimants some degree of compensation. Those reports were accompanied by documents, statements, and estimates, of a voluminous size, all of which had been printed, and he supposed had been before every member of the Senate. The session before last, (since which period not a great number of changes has been made in the Senate,) he went largely into details to show the justice of these claims; and, at the last session, an honorable Senator from Maryland, not now here, had opened the whole subject to the consideration of this body.

He (Mr. W.) should content himself with stating very briefly an outline of the grounds on which these claims are supposed to rest, and then leave the subject to the consideration of the Senate. He, however, should be happy, in the course of the debate, to make such explanations as might be called for. It would be seen that the bill proposed to make satisfaction, to an amount not exceeding five millions of dollars, to such citizens of he United States, or their legal representatives, as had valid claims for indemnity on the French Government, rising out of illegal captures, detentions, and condemnations, made or committed on their property prior to the 30th day of September, 1800. This bill supposed two or three leading propositions to be true.

It supposed, in the first place, that illegal seizures, detentions, captures, condemnations, and confiscations, were made, of the vessels and property of the citizens of the United States, before the 30th September, 1800.

It supposed, in the second place, that these acts of wrong were committed by such orders and under such circumstances, as that the sufferers had a just right and claim for indemnity from the hands of the Government of France.

Going on these two propositions, the bill assumed one other, and that was, that all such claims on France as came within a prescribed period, or down to a prescribed period, had been annulled by the United States, and that this gave them a right to claim indemnity from this Government. It supposed a liability in justice, in fairness and equity, on the part of this Government, to make the indemnity. These were the grounds on which the bill was framed. That there were many such confiscations no one doubted, and many such acts of wrong as were mentioned in the first section of the bill. That they were committed by Frenchmen, and under such circumstances as gave those who suffered wrong an unquestionable right to claim indemnity from the French Government, nobody, he supposed, at this day, would question. There were two questions which might be made the subject of discussion, and two only occurred to him at that moment. The one was, "On what ground was the Government of the United States answerable to any extent for the injury done to these claimants?" The other, "To what extent was the Government in justice bound?" And *first*—of the first. "Why was it that the Government of the United States had become responsible in law or equity to its citizens, for the claims—for any indemnity for the wrongs committed on their commerce by the subjects of France before 1800?"

To this question there was an answer, which, whether satisfactory or not, had at least the merit of being a very short one. It was, that, by a treaty between France and the United States, bearing date the 30th of September, 1800, in a political capacity, the Government of the United States discharged and released the Government of France from this indemnity. It went upon the ground, which was sustained by all the correspondence which had preceded the treaty of 1800, that the disputes arising between the two countries should be settled by a negotiation. And claims and pretensions having been asserted on either side, commissioners on the part of the United States were sent out to assert and maintain the claims of indemnity which they demanded; while commissioners appointed on the part of France asserted a claim to the full extent of the stipulations made in '78, which they said the United States had promised to fulfil, and in order to carry into effect the treaty of alliance of the same date, viz: February, 1778.

The negotiation ultimately terminated, and a treaty was finally ratified upon the terms and conditions of an offset of the respective claims against each other, and for ever; so that the United States Government, by the surrender and discharge of these claims of its citizens, had made this surrender to the French Government to obtain for itself a discharge from the onerous liabilities imposed upon them by the treaty of 1778, and in order to escape from fulfilling other stipulations proclaimed in the treaty of commerce of that year, and which, if not fulfilled, might have brought about a war with France. This was the ground on which these claims rested.

Heretofore, when the subject had been before Congress, gentlemen had taken this view of the case; and he believed there was a report presented to the Senate at the time, which set forth that the claims of our citi-

zens, being left open, the United States had done these claimants no injury, and that it did not exempt the Government of France from liability.

It was urged, too, that there was no reason to cherish a hope of obtaining any substantial indemnity from France, as it had undergone so many changes in its political affairs on account of the revolution, and other causes, since the depredations were committed. The subject was met with accumulated objections, and it was said that, on account of the worthless character of the claims, there could have been no reasonable hope of obtaining indemnity from France, and therefore the Government was not bound in equity to make compensation at all. He thought we had advanced too far in this period of our history to maintain any longer such an hypothesis, because we have since had experience that claims, not more meritorious in their character, have been pressed on France under the existing Government, until, by a solemn treaty, it has been stipulated to pay for them twenty-five millions of francs. The Government had itself asserted the validity and value of such claims as were now existing in behalf of the citizens of the United States against the French Government. We had obtained from France a treaty of indemnity, by which she stipulated to pay, for aggressions, the sum of twenty-five millions of francs.

It had never been supposed that these claims prior to 1800 could fairly be compensated out of this fund, for the very reason that they were released; and if the Government of the United States had had no other claim to press upon the justice of the French Government than such as existed before 1800, they would have been barred and precluded from any such claims by the express words of the treaty of 1800. This question seemed now of less importance to be dwelt upon, inasmuch as by a recent treaty with France, and under a law of Congress passed for carrying it into execution, a board of commissioners had been established to ascertain the claims on that fund, and to distribute it according to the intention of the treaty; and that board, it was well known, a year or two since, came to the determination that this class of claimants had no claim on the fund, because the United States had released all their claims by the treaty of 1800; and the whole fund obtained by the recent treaty was to be distributed among those who had suffered acts of wrong committed subsequent to 1800.

This, then, was the ground of the claim. Here, then, were substantial claims which were in the nature of property, and they were such claims as, in regard to that nation and other nations, could have been settled after the pacification of Europe, according to their value. The Government of the United States relinquished the claims in behalf of the nation, but not for individual claimants. By this act of the Government they had been deprived of all right to apply to the Government of France, and had been adjudged to have no right to apply under the commission now sitting to distribute the sum stipulated to be paid by France for depredations committed on the commerce of the United States.

This is the ground of the claim.

The other question respects the amount. It was natural it should be asked, "how was it that we are able to fix, as the reasonable estimate, the sum of $5,000,000?" The answer was, those to whom the subject had been committed had gone through the labor of an examination, in order to see what was the number of vessels and cargoes destroyed, burnt, confiscated, &c., prior to the treaty of 1800, by the Government of France. Their opinion was, that the sum of $5,000,000 was not too high, in proportion to the sum obtained for the other class of claimants. He did not propose to go further into the subject at present.

Mr. WEBSTER having concluded his remarks, and no amendment having been proposed, the bill was reported to the Senate.

Mr. TYLER said that this was a bill of the highest importance; not merely in reference to the amount of the sum appropriated, but on account of the principle involved. Some years ago it had become his duty to examine this subject, and after giving to it the fullest examination, he had come to the conclusion that there was no just foundation for the claims. He had had the pleasure of listening to the honorable Senator from Massachusetts twice in support of these claims, and capable as that gentleman was of shaking his (Mr. T's.) opinion on matters of law, whether national or municipal, his opinion on this subject remained unchanged. It would be recollected that these claims took their origin as far back as the year 1796; he could not be very exact as to dates, but they covered the whole of the time subsequent to that period, up to the year 1800. Before, therefore, the Senate could act on this bill, it would become them to look into the whole history of the intermediate period, and to see what was the situation in which the Governments of France and of the United States stood towards each other during that time. It would be seen that our Government had not neglected any efforts to obtain recompense for these claimants from France. Minister after minister had been sent to France for the purpose of negotiating on this point. We had had special embassies for the purpose of pressing these claims on the consideration of France. This object had been pursued up to the year 1800, with the utmost assiduity, and the Government of the United States had thus fulfilled every duty which it owed to its citizens. Every obligation of this character had been discharged by the Government, as far as it had the power, by those negotiations.

These claims had been pressed on the ground that the United States had, by the treaty of 1800, made provision for the payment, and had discharged France from all liability. Turn and twist it as you will, (said Mr. T.,) the argument amounts only to this: that the Government of the United States, for a valid consideration, assumed these claims. And what was that consideration? It was a consideration upon which no payment could be made, on which no claimant could rest. By the treaty of 1778, there were mutual stipulations between France and the United States. One of these stipulations was that France should guaranty the independence of the United States, while the United States should guaranty to France the two West India islands, Guadaloupe and Martinique.

In the war which prevailed afterwards between Great Britain and France, the obligation on the United States to fulfil this part of the treaty remained in full force. Was it expected that the United States should make herself a party to this war? He put it to the gentleman from Massachusetts to say, with all the correspondence before him, if there was not then a great anxiety on the part of the United States to get rid of that guarantee. Had an American citizen a right to come here for compensation for losses, because the United States, by a subsequent treaty, got rid of that guarantee? The United States never intended to comply with that feature of the treaty of 1778. Yet the ground taken was, that, because the United States had got rid of the guarantee, she was bound to compensate for these spoliations. He contended that such a conclusion was in opposition to every authority which could be brought forward.

But there were other grounds which pressed themselves upon his memory. A great part of these claims would go to the ensurers. What he said was this: if the Government was bound to repay the losses of these ensurers, it was equally entitled to share in their profits, according to the established policy of ensurance offices, and there were immense profits made during that pe-

riod, otherwise it would be a total loss to the United States of the whole ensurance, premium and all. He was willing to go into a statement of the accounts—to take the losses and take also the profits of a period during which the enterprise of the United States was extended beyond every former period.

He threw out these views to attract the attention of Senators. He could not suffer himself to remain quiet in his seat without having said thus much—his principal design being to awaken the attention of the Senate.

Mr. BENTON expressed his satisfaction that the Senator from Virginia [Mr. TYLER] had at once opened the discussion on this subject, thereby preventing a bill so important on account of the money concerned, and infinitely more important for the principles it involved, from being hurried through its first stages without a thorough examination. During the fourteen years he (Mr. B.) had been in the Senate, it had been his province to watch the progress of this bill—his eye had been constantly fixed on it; and while he never had sufficient time to devote to a proper examination of so important a subject, he had always wished that some gentleman who was capable of doing it justice would make himself master of it, and place it in a strong light before Congress and the American people. He himself, as he had said above, had not had time to look sufficiently into the subject, and he therefore wished those gentlemen who were in the same situation to see the vast amount of documents necessary to be examined before it could be understood.

We have had, said he, for years, volumes of 600 pages each presented to us relative to these claims, and, if he was rightly informed, a mere epitome or abstract of them. No; he was wrong, for the term epitome or abstract implied a just though abbreviated view of the whole subject; and he had been informed that these volumes contained mere one-sided testimony, for the purpose of favoring the claims. He might be in error as to this, but, if so, it would be shown by a due examination of the whole subject.

Then, as to the reports which had been before the House for years. He wished gentlemen to bear with him while he made a few observations respecting them: his sole object being to do justice to his country. He therefore said as he believed, that these reports were framed in such a way as not to give a complete view of the subject embraced in them. They had been made by select committees, comprised of five members, always selected with a majority in favor of the claims. He did not say that this was unfair; but he did say that there ought at least to have been on these committees minorities able to examine the important principles involved, and to report, not a volume of 600 or 1,000 pages, but to report sufficiently to enable the Senate to understand both sides of the question.

How was this select committee formed the other day? Why, one of the members was a gentleman from South Carolina, [Mr. PRESTON,] not then here, and another was a gentleman [Mr. GRUNDY] so swamped, as he expressed himself, by his arduous duties in the Post Office Committee, as to be wholly unable to give the necessary degree of attention to a committee requiring so much labor and research as this did. Are we, then, (said Mr. B.,) to be expected to give faith to a report from a committee so framed that the majority is known to be favorable to the object for which it was appointed, and the minority known to be so constituted as not to be able to give the proper attention to its duties? He had looked into this mass of documents, and if the bill was not to be galloped through with, he would look farther into the 1,000 pages, in order to understand them better than he then did. In the mean time, he was glad that the Senator from Virginia, who possessed some knowledge of the subject, had undertaken it, though he regretted that that gentleman was not a member of the committee. He would also be glad if the Senator from Tennessee, just before him, who was once on the committee, and who once gave his views on the subject, would undertake the task again. With his present impressions regarding these claims, he should feel himself highly culpable if he did not raise his voice against them. The Senator from Virginia [Mr. TYLER] had just said that these claims ran back as far as 1796. But look (said Mr. B.) at the first section of the bill, and you may seek in vain in the annals of legislation for any thing so illimitable as to time. The complaints were not against the Republic of France, or against the monarchical Government of France, but against all the Governments of that country; while the time was carried back as far as our national existence would go, in order to open the door to these claims. And what was the description of them? They were for detentions, condemnations, forcible seizures, illegal captures, and confiscations, &c., made or committed prior to 1800.

Was there any thing in language that could be more loose; or was there any disaster to which vessels were liable, in a time of war, that could not be brought within this general description?

The Senator from Massachusetts [Mr. WEBSTER] had compared the claims to be provided for by this bill with those covered by the late French treaty; but Mr. B. apprehended they were as opposite as any two extremes could possibly be. The first class of claims embraced in the treaty was for American vessels invited into St. Sebastian by the French General, and there captured and condemned. The second class was for vessels captured under the Berlin and Milan decrees, before the American owners and captains could possibly know of the existence of those decrees. The third class of claimants was for non-payment of supplies to the West India islands and to continental France; and the fourth class was for American vessels burnt on the high seas by French cruisers, for fear the American vessels would let the British fleet know where the French cruisers were. These were the classes of claims covered by the treaty, and were altogether unlike those intended to be provided for by the bill. Mr. B. concluded by saying that he did not desire at that time to enter into a full discussion; but if this bill was not to be galloped through with, he wished to have an opportunity to make an examination into the subject, for the purpose of informing the American people of the nature of these claims.

Mr. PRESTON said he should be very greatly gratified if the Senator from Missouri would give them the benefit of a further investigation into the matter; and there was no one who more profoundly felt the necessity of that course being taken than himself, (Mr. P.) He came from a section of the country which was generally much opposed to the passage of bills of this description, and which might have been supposed to have marked out the line of policy which he was to pursue, namely, that he should oppose the improper appropriation of money for this or any other matter.

He could never advocate the improper taking of funds out of the treasury, more especially after the course which he had felt himself bound to take at the last session, when he had been of opinion that, in this particular, a flagrant attack had been made on the constitutional rights of this body. He now felt himself authorized to take up a position contrary to that of the gentleman from Virginia, with whom he had the honor to be associated at that period, and came to the conclusion, from an examination of the documents and the report made on the subject, that the claims ought to be entertained. That gentleman, with whom he had been associated personally and politically, had made up his

mind adverse to them. He (Mr. P.) had gone into an investigation of the documents to which the honorable Senator had alluded, as well as all the correspondence, and yet, with the little attention which he was enabled to bestow upon the subject, he was convinced as to what formed the basis of the treaty of 1800. As a lawyer, he should, after all the examination which he had given the subject, and in which he had not spared any labor, have felt himself authorized not to abandon these claims upon the testimony he had seen. It had been said that the testimony was *ex parte*. Of that, he could say nothing. But the testimony was voluminous, and it was necessary to a thorough investigation to examine reports, consisting of six or eight hundred pages.

As a new member, he thought it his duty to devote himself assiduously to this labor, for he was anxious to get at the bottom of the matter. He took a course in regard to these claims which was calculated to lead him to a just conclusion. Taking up the report against the claims, with a prepossession in favor of the views entertained in it, he went through it; and he also examined the report of Mr. Livingston, in favor of the claims, with an anxious desire to find some point on which he could rest an opposition to them; but he could find no such point. From a wish to ascertain what was likely to be the extent of the labor involved in an investigation of the evidence, &c., he had made certain inquiries, and the answers were of such a nature as to make him shrink from the task. With all the spirit that actuated the Senate on this subject, he would tell them they could not go through the mass of papers relating to it this session, if they did nothing else. As far as he had had an opportunity of judging, from the testimony he had seen, the opinion which he had come to was, that the claims were irresistible.

He should have been glad to have found that his original views were right; but, as long as he entertained a different opinion, and that most conscientiously, he would merely say that, instead of the five millions which were claimed, had the sum been five hundred millions, although it should drain the treasury, if it were justly due, he should say "pay it." Although a large sum, as his constituents would think, yet he would not shrink from voting for the payment of it. He knew how easy it was for gentlemen's minds to shrink back at the idea of paying large sums to claimants who were scattered all over the country. This was a large sum, and it was an easy matter to shrink from the examination of the subject, and to say there are sufficient grounds of opposition, and that the treasury must not be exhausted. He cared not what it might cost, if the honor or honesty of the country was involved: he went for that, cost whatever of blood or treasure it might—whether the spoliations were anterior or subsequent to 1800; it was of no consequence. His honorable friend from Virginia, [Mr. TYLER,] who opposed these claims, had suggested a matter which he could not agree to: that the claimants here were the ensurers of property which was ventured abroad during the *quasi* war.

[Mr. TYLER said "not all."]

Mr. PRESTON continued: Well, a large portion of them: he was going to say not all. A great proportion of them were losers by that war. There were some of his own constituents who came here as claimants, and who did not come under the character of ensurers, and many of them would not, if this bill were to pass, obtain five cents in the dollar of what they had lost.

He knew those who had presented petitions from his State were some of them widows, and children, and grandchildren. Why were they presented? Because they were considered just and equitable demands. Without pretending to go into the matter at this time, he would state that there were questions of deep and delicate policy involved in these claims. The view which he took of this subject was shortly this: In the *quasi* war, which took place between 1793 and 1800, spoliations were committed on our commerce by various Governments in Europe which were at war with France. Negotiations were set on foot between France and the United States on the subject of the *quasi* war, and they were settled by the convention of 1800. Now, that convention was conclusive in barring thereafter all claims arising out of previous spoliations on the French Government. It had never entered into the heads of the claimants to go to the French Government since. By the treaty, the United States exempted itself from the guarantee of the West India islands. We were willing to give any thing to get rid of that guarantee, and proposed, by instructions from the Executive, no less than three several times, to give any actual sum to get rid of the original treaty. We proposed to give money to get out of the difficulty—the predicament in which we had placed ourselves while struggling for our liberties. Having first called upon France to assist us, we afterwards thought proper to adopt another course towards her when she was struggling for her liberties; and we offered to give three times the sum appropriated by this bill, to buy ourselves by money out of the compact which we had entered into with France in regard to the islands of Guadaloupe and Martinique. It was worth more to them; they held us up for other purposes. The French Government came to the conclusion that we should buy off the guarantee by assuming these claims. He was not sufficiently *au fait* to lay his hands on the books; but he referred to the extracts of the reports of the commissioners, and the terms on which the negotiation was made, in order to show that that was the ground which was taken. We made arrangements, and we got rid of the complaints which were made about spoliations.

We had used the property of the parties injured for the purposes of the Government; and we had bought ourselves free from the guarantee of Guadaloupe and Martinique. [Here Mr. PRESTON was wholly inaudible.] We had used the property of this people for the purposes of the Government; and yet it was contended that we should not make compensation. If, however, we had used their means to extricate ourselves from our difficulties, we were bound to pay them to the last cent.

In another point of view he had examined this question with some attention, and he now threw out the views he entertained, in order that gentlemen might examine into the matter. He had used the expression "*quasi* war," between 1793 and 1800, while the chaldron of the French revolution was boiling over, and scattering its fierce effervescence over the whole of Europe. It was affirmed by some gentlemen that this period was to be considered a state of actual war, which rendered it impossible for the French Government to enter into any treaties on the subject of these spoliations. Mr. P. then went into a view of the course which had been taken by our Government in reference to the condition of France, and the validity of the treaties made during that period, and concluded with saying that he should be extremely gratified to be convinced that we were not bound by our consciences to pay these claims. If they were unjust, then, no matter how much the claimants might be injured, he would vote against the bill, and should rejoice to think that we had not expended money upon those to whom it was not due. But, if he had now taken wrong views of the matter, he demanded, at least, the credit of having spoken with sincerity, and from a desire to see justice done to these claimants.

Mr. BENTON said the honorable Senator from South

Carolina had spoken of the magnitude of the sum involved, as presenting an obstacle to the passage of these claims. He (Mr. B.) apprehended that a more full acquaintance with our legislation would enable that gentleman to perceive that the magnitude of the sum which was to be appropriated was not the obstacle, but that precisely in proportion to the mass--the momentum--the million--the amount, we got along. And certain it was, that we ourselves--each member was cognizant of the momentum which operated in the magnitude of the claim to carry it along. Was there any gentleman who attended either House of Congress assiduously, but what knew that it was easy enough to obtain memorials in every section of the Union? And did not some of those come from widows, from whom, perhaps, the speculator had taken it? Or, if not, perhaps he would allow her but a scanty pittance, whilst he himself was loaded with the thousands? When the gentleman had sat there as long as he had, he would cease to talk of amounts--of millions. But the honorable Senator had read--what? Those *ex parte* documents which he (Mr. B.) had perused, and had also read the report which he (Mr. B.) had named. With regard to Mr. Livingston's participation in the treaty with France, he (Mr. B.) would say that he entertained for him the highest respect and regard, and thought highly of his intellectual capacity; but he was in every affair of money a mere "child," whether it was in his own private concerns, or that of his country. The honorable Senator seemed to think that an examination into this matter could not be fully completed in three months. He (Mr. B.) thought otherwise, and, in conclusion, remarked that he should "make battle for his country" by day or by night, and whether this bill was now to be galloped through, or proceeded in slowly, he would be found contending for his native land. But, for the present, he should say no more.

Mr. SHEPLEY observed that, as he had been alluded to as being one of the committee, and as he had never been on the committee before, it might possibly be supposed that he had made up an opinion favorable to these claims without a due examination. While he hoped that every fair opportunity would be given to gentlemen who were not acquainted with the subject to make all necessary examinations, he must say that, before he was on the committee, he had found it necessary to investigate the documents, not as a committee man, but as a Senator, knowing these claims were before Congress, and that there were reports in relation to them on which he would probably have to act. He did not, therefore, come there without having prepared himself to act when the business came before the Senate. He did not come there "to make fight" without having ready the weapons to make fight with; and he trusted that, when an opportunity served, he would be able to show that he had patiently and diligently examined into the nature of the whole of these claims, and also be able to prove to all minds, not already made up against them, that the claims were good claims; that they were against France; that there was a reasonable expectation that they could be recovered from France, and that there was good reason for saying that they were worth as much as the claims that have been recovered from France, Spain, and Denmark. He trusted also to be able to show that, when this Government recognised those claims, and when it urged them against France, it found itself in a condition to make them good, and to recover the amount. Being therefore in a condition to recover them, which no Senator would deny, why was it not done? It was because France set up a claim against us under the eleventh article of the treaty, by which we guarantied the safety of the West India islands, together with a claim against us of her own citizens, which she might have recovered. Because also France proposed that there should be a convention to decide upon and settle the claims of the citizens of both countries, and was ready to abide by the decision of the convention, paying to our citizens what might be found to be due to them, and exacting from the United States the amount found to be due to her citizens.

The United States, however, declined to enter into this convention, and not only declined it, but offered to compensate France in money, to the amount of five millions of francs, for the non-performance of the stipulations in the eleventh article of the treaty, which offer France declined, demanding ten millions of francs. The United States further offered to France three millions of francs as a compensation for other claims; and, finally, both Governments agreed, by the treaty of 1800, as was well known, to postpone further negotiations on these subjects. Again, the very grounds of the ratification of this treaty on the part of France was, that her claims against us should be considered as a set-off for the claims of our citizens against her. That is, that each Government should discharge the claims of its own citizens against the other; and it was so understood at the time of the ratification of the treaty. There was then a most express set-off of the claims of American citizens on France against our treaty stipulations with that Power; and if gentlemen would take the trouble to examine the documents, they would find that there never was a more complete set-off of one claim against another than was to be shown by them.

But it was said by the Senator from Missouri that these reports came from a most partial source. He could, if it were not for taking up too much of the time of the Senate, show, from the official documents of this Government, that the reports were perfectly fair. Two opposing propositions could not, it must be admitted, be maintained from official documents; and if this Government did not, in its official documents, present so singular an anomaly as two opposing propositions, he could not be in an error. He must be permitted, therefore, to rely on the documents in the report for the conclusions he had arrived at, until, from some other documents, the opposite could be proved. He had not expected at that time to show from these documents, reading them page by page, the truth of every proposition he had laid down; but he could and would, on a proper occasion, demonstrate the fairness and justice of all these claims. For the present, he would propose that the further consideration of the subject be postponed.

Mr. WEBSTER then moved an adjournment, which was carried.

THURSDAY, DECEMBER 18.

BANK OF THE UNITED STATES.

Mr. TYLER, from the Committee on Finance, which was directed by the resolution of the Senate to inquire into the condition and affairs of the Bank of the United States, made a voluminous report thereon; which having been read, Mr. T. moved to print the ordinary number of copies.

Mr. BENTON rose, not to object to the printing, nor to go into an argument in answer to the report, which would come more properly at another time, but to correct some errors which claimed his attention. His own name was made to figure in that report, in very good company to be sure, that of President Jackson, Vice President Van Buren, and Senator Grundy. It seems that we have all, said Mr. B., been detected in something that deserves exposure, in the offence of aiding our respective constituents, or fellow-citizens, in obtaining branch banks to be located in our respective States;

and upon this detection the assertion is made that these branches were not extended to these States for political effect, when the charter was nearly run out, but in good faith, and upon our application, to aid the business of the country. Mr. B. said it was true that he had forwarded a petition from the merchants of St. Louis, about 1826 or '27, soliciting a branch at that place; and he had accompanied it by a letter, as he had been requested to do, sustaining and supporting their request; and bearing the testimony to their characters as men of business and property, which the occasion and the truth required. He did this for merchants who were his political enemies, and he did it readily and cordially, as a representative ought to act for his constituents, whether they are for him or against him in the elections. So far so good; but the allegation of the report is, that the branch at St. Louis was established upon this petition, and this letter, and therefore was not established with political views, but purely and simply for business purposes. Now, said Mr. B., I have a question to put to the Senator from Virginia, [Mr. TYLER,] who has made the report for the committee: It is this, whether the president or directors of the bank had informed him that General Cadwallader had been sent as an agent to St. Louis, to examine the place, and to report upon its ability to sustain a branch?

Mr. TYLER rose and said that he had heard nothing at the bank upon the subject of General Cadwallader having been sent to St. Louis, or any report upon the place being made.

Then, said Mr. BENTON, resuming his speech, the committee has been treated unworthily, scurvily, basely, by the bank! It has been made the instrument to report an untruth to the Senate, and to the American people; and neither the Senate, nor that part of the American people who chance to be in this chamber, should be permitted to leave their places until that falsehood was exposed.

Sir, said Mr. B., addressing the Vice President, the president and directors of the Bank of the United States, upon receiving the merchants' petition, and my letter, did not send a branch to St. Louis! They sent an agent there, in the person of General Cadwallader, to examine the place, and to report upon its mercantile capabilities and wants; and upon that report the decision was made, and made against the request of the merchants, and that upon the ground that the business of the place would not justify the establishment of a branch. The petition from the merchants came to Mr. B. while he was here, in his seat; it was forwarded from this place to Philadelphia; the agent made his visit to St. Louis before he (Mr. B.) returned; and when he got home, in the spring or summer, the merchants informed him of what had occurred, and that they had received a letter from the directory of the bank, informing them that a branch could not be granted; and there the whole affair, so far as the petition and the letter were concerned, died away. But, said Mr. B., it happened just in that time that I made my first demonstration—struck my first blow—against the bank; and the next news that I had from the merchants was, that another letter had been received from the bank, without any new petition having been sent, and without any new report upon the business of the place, informing them that the branch was to come! And come it did, and immediately went to work to gain men and presses, to govern the politics of the State, to exclude him (Mr. B.) from re-election to the Senate, and to oppose every candidate, from Governor to constable, who was not for the bank. The branch had even furnished a list to the mother bank, through some of its officers, of the names and residences of the active citizens in every part of the State; and to these, and to their great astonishment at the familiarity and condescension of the high directory in Philadelphia, myriads of bank documents were sent, with a minute description of name and place, postage free. At the presidential election of 1832, the State was deluged with these favors. At his own re-elections to the Senate, the last two, the branch bank was in the field against him every where, and in every form; its directors traversing the State, going to the houses of the members of the General Assembly after they were elected, in almost every county, over a State of sixty thousand square miles; and then attending the Legislature, as lobby members, to oppose him. Of these things Mr. B. had never spoken in public before, nor should he have done it now, had it not been for the falsehood attempted to be palmed upon the Senate through the instrumentality of its committee. But having been driven into it, he would mention another circumstance, which also he had never named in public before, but which would throw light upon the establishment of the branch in St. Louis, and the kind of business which it had to perform. An immense edition of a review of his speech on the veto message was circulated through his State on the eve of his last election. It bore the impress of the bank foundry in Philadelphia, and was intended to let the people of Missouri see that he (Mr. B.) was a very unfit person to represent them: and afterwards it was seen, from the report of the Government directors to the President of the United States, that seventy-five thousand copies of that review was paid for by the Bank of the United States! That looked bad enough, said Mr. B., but it was not all. That speech, of which the bank thought it worth while to get a review written, and to publish an edition of seventy-five thousand copies, was not thought worthy to be put in the Register of Debates! that Register to which Congress is a subscriber, and which purports to be a true history of our debates. More; the replies to it were published in the same Register! He spoke of the speech on the veto message! There was another, on the final passage of the bank bill, not totally suppressed, but compressed into nothing; six hours' speaking put into a paragraph; and his main speech on the whole bill thus converted into what an unfortunate orator of Arkansas once said of his own, on seeing the marrowless skeleton of his oration in the newspaper, "*a diminutive metamorphit!*" And as for a third speech, inserted for him in that same Register, it was an infamous falsification of the truth. Mr. B. had never mentioned these things publicly before, nor should he have done it now, except to show that the falsehood of which the Senate's committee has been made the organ, is a part of the system of the bank, pervading even our congressional history. It was his intention, at some proper time, to have a committee to report upon those publications called Registers of Debates, so far as they have been published since the Bank of the United States has undertaken to wield the press. The one which he now had in his eye was that of Messrs. Gales and Seaton.

Mr. B. said that if he had had a line from the committee, (and he was within their reach all the summer,) he could have turned them to the inquiry which would have brought out the truth, with respect to the establishment of the St. Louis branch, and saved them from the imposition which the bank directory had practised upon them. As it was, he still wanted their help in a case which was now theirs, as well as his; it was to aid him in exposing the unworthy, the scurvy, and the base trick of the bank. He should submit a resolution requiring the committee to obtain from the president of the bank a copy of General Cadwallader's report; a copy of the answer to the merchants, and a copy of the second letter, announcing the change of determination, and the immediate establishment of the branch. Until those copies came in, he

should say no more on that point, but must be content to see his name figure in the myriad of copies of the report (the more the better) which would be printed, and which would give the village orators of the bank an opportunity of astonishing the natives who came in from the heads of the creeks and the gorges of the mountains, with showing them what an inconsistent and unprincipled fellow this Mr. Benton is; and to admire the delicacy of the bank, which never publishes a private letter, nor exposes the names of public men.

Mr. B. said there was another thing which must be noticed now, because the proof to confound it was written in our own journals. He alluded to the "hostility" of the President of the United States to the bank, which made so large a figure in that report. The "vindictiveness" of the President—the "hostility" of the President, was often pressed into the service of that report, which he must be permitted to qualify as an elaborate defence of the bank. Whether used originally, or by quotation, it was the same thing. The quotation from Mr. Duane was made to help out the argument of the committee—to sustain their position, and thereby became their own. The "vindictiveness" of the President towards the bank is brought forward with imposing gravity by the committee; and no one is at a loss to understand what is meant! The charge has been made too often not to suggest the whole story as often as it is hinted. The President became hostile to the president of the bank because he could not manage him, and make him use the institution for political purposes! and hence his revenge, his vindictiveness, his hatred of Mr. Biddle, and his change of sentiment towards the institution. This is the charge which has run through the bank presses for three years, and is alleged to take date from 1829, when an application was made to change the president of the Portsmouth branch. But how stands the truth, recorded upon our own journals? It stands thus: that for three consecutive years after the harboring of this deadly malice against Mr. Biddle, for not managing the institution to suit the President's political wishes—for three years, one after another, with this "vindictive" hate in his bosom, and this diabolical determination to ruin the institution, he nominates this same Mr. Biddle to the Senate as one of the Government directors, and at the head of those directors! Mr. Biddle, and some of his friends with him, came in upon every nomination for three successive years, after vengeance had been sworn against him! For three years afterwards he is not only named a director, but indicated for the presidency of the bank, by being put at the head of those who came recommended by the nomination of the President, and the sanction of the Senate! Thus was he nominated for the years 1830, 1831, and 1832; and it was only after the report of Mr. Clayton's committee of 1832 that the President ceased to nominate Mr. Biddle for Government director! Such was the frank, confiding, and friendly conduct of the President; while Mr. Biddle, conscious that he did not deserve a nomination at his hands, had himself also elected during each of these years, at the head of the stockholders' ticket. He knew what he was meditating and hatching against the President, though the President did not! What, then, becomes of the charge faintly shadowed forth by the committee, and publicly and directly made by the bank and its friends? False! False as hell! and no Senator can say it without finding the proof of the falsehood recorded in our own journal!

Mr. B. was not now going into a general answer to the report, but he must do justice to an absent gentleman—one of the purest men upon earth, both in public and private life, and who, after the manner he had been treated in this chamber, ought to be secure, in his retirement, from Senatorial attack and injustice. The committee have joined a conspicuous issue with Mr. Taney; and they have carried a glorious bank victory over him, by turning off the trial upon a false point. Mr. Taney arraigned the legality of the conduct of the exchange committee, which, overleaping the business of such a committee, which is to buy and sell real bills of exchange, had become invested with the power of the whole board; transacting that business which, by the charter, could only be done by the board of directors, and by a board of not less than seven, and which they could not delegate. Yet this committee of three, selected by the president himself, was shown by the report of the Government directors to transact the most important business; such as making immense loans, upon long credits, and upon questionable security; sometimes covering its operations under the simulated garb, and falsified pretext, of buying a bill of exchange; sometimes using no disguise at all. It was shown, by the same report, to have the exclusive charge of conducting the curtailment last winter; a business of the most important character to the country, having no manner of affinity to the proper functions of an exchange committee; and which they conducted in the most partial and iniquitous manner, and without even reporting to the board. All this the Government directors communicated. All this was commented upon on this floor; yet Mr. Taney is selected! He is the one pitched upon; as if nobody but him had arraigned the illegal acts of this committee; and then he is made to arraign the existence of the committee, and not its misconduct! Is this right? Is it fair? Is it just thus to pursue that gentleman, and to pursue him unjustly? Can the vengeance of the bank never be appeased while he lives and moves on earth?

Mr. B. had performed a duty which ought not to be delayed an hour, in defending himself, the President, and Mr. Taney, from the sad injustice of that report; the report itself, with all its elaborate pleadings for the bank—its errors of omission and commission—would come up for argument, after it was printed; and when, with God's blessing, and the help of better hands, he would hope to show that it was the duty of the Senate to recommit it, with instructions to examine witnesses upon oath, and to bring out that secret history of the institution, which seems to have been a sealed book to the committee. For the present, he would bring to light two facts, detected in the intricate mazes of the monthly statements, which would fix at once both the character of the bank and the character of the report; the bank, for its audacity, wickedness, and falsehood; the report, for its blindness, fatuity, and partiality.

The bank, as all America knows, (said Mr. B.,) filled the whole country with the endless cry which had been echoed and re-echoed from this chamber, that the removal of the deposites had laid her under the necessity of curtailing her debts; had compelled her to call in her loans, to fill the vacuum in her coffers produced by this removal; and thus to enable herself to stand the pressure which the "hostility" of the Government was bringing upon her. This was the assertion for six long months; and now let facts confront this assertion, and reveal the truth to an outraged and insulted community.

The first fact (said Mr. B.) is the transfer of the moneys to London, to lie there idle, while squeezed out of the people here during the panic and pressure.

The cry of distress was raised in December, at the meeting of Congress; and during that month the sum of $129,764 was transferred by the bank to its agents, the Barings. This cry waxed stronger till July, and until that time the monthly transfers were:

December,	$129,764	June,	2,142,054
February,	355,253	July,	501,950
March,	261,543		
May,	34,749		$3,425,313

Making the sum of near $3,500,000 transferred to London, to lie idle in the hands of an agent, while that very money was squeezed out of a few cities here; and the whole country, and the halls of Congress, were filled with the deafening din of the cry, that the bank was forced to curtail, to supply the loss in her own coffers from the removal of the deposites! And worse yet! The bank had in the hands of the same agents a large sum when the transfers of these panic collections began, making, in the whole, the sum of $4,261,201 on the first day of July last, which was lying idle in her agents' hands in London, drawing little or no interest there, while squeezed out of the hands of those who were paying bank interest here, near seven per cent., and had afterwards to go into brokers' hands to borrow at one or two per cent. a month. Even now, at the last returns on the first day of this month, about $2,500,000 of this money ($2,687,006) was still lying idle in the hands of the Barings!--waiting till foreign exchange can be put up again to eight or ten per cent. The enormity of this conduct, Mr. B. said, was aggravated by the notorious fact, that the transfers of this money were made by sinking the price of exchange as low as five per cent. below par, when shippers and planters had bills to sell, and raising it eight per cent. above par when merchants and importers had to buy; thus double taxing the commerce of the country--double taxing the producer and consumer, and making a fluctuation of thirteen per cent. in foreign exchange, in the brief space of six months; and all this to make money scarce at home, while charging that scarcity upon the President! Thus combining calumny and stock-jobbing with the diabolical attempt to ruin the country or to rule it.

The next fact (Mr. B. said) was the abduction of an immense amount of specie from New Orleans, at the moment the western produce was arriving there, and thus disabling the merchants from buying that produce, and thereby sinking its price nearly one-half; and all under the false pretext of supplying the loss in its coffers occasioned by the removal of the deposites.

The falsehood and wickedness of this conduct will appear from the fact that, at the time of the removal of the deposites, in October, the public deposites in the New Orleans branch were far less than the amount afterwards curtailed and sent off; and that these deposites were not entirely drawn out for many months after the curtailment and abduction of the money. Thus the public deposites, in October, were:

In the name of the Treasurer of the United States, - - - - -	$294,228 62
In the name of public officers, - -	173,764 64
	$467,993 26

In all, less than half a million of dollars.

In March there was still on hand:

In the name of the Treasurer, - -	$40,266 28
In the name of public officers, - -	63,671 80
	$103,938 08

In all, upwards of $100,000; and making the actual withdrawal of deposites, at that branch, but $360,000, and that paid out gradually, in the discharge of Government demands.

Now, what was the actual curtailment during the same period? It is shown from the monthly statements, that these curtailments, on local loans, were $788,904; being upwards of double the amount of deposites, miscalled removed; for they were not removed, but only paid out in the regular progress of Government disbursement, and actually remaining in the mass of circulation, and much of it in the bank itself. But the specie removed during the same time! that was the fact—the damning fact, upon which he relied. This abduction was:

In the month of November,	$334,647, at the least.
In the month of March,	808,084, at the least.
	$1,142,731

Making near $1,250,000, at the least. Mr. B. repeated at the least; for a monthly statement does not show the accumulation of the month, which might also be sent off; and the statement could only be relied on for so much as appeared a month before the abduction was made. Probably the sum was upwards of 1,250,000 hard dollars, thus taken away from New Orleans last winter, by stopping accommodations, calling in loans, breaking up domestic exchange, creating panic and pressure, and sinking the price of all produce; that the mother bank might transfer funds to London, gamble in foreign exchange, spread desolation and terror through the land, and then charge the whole upon the President of the United States, and end with the grand consummation of bringing a new political party into power, and perpetuating its own charter.

These, said Mr. B., are two, and only two, out of multitudes of the astounding iniquities which have escaped the eyes of the committee, while they have been so successful in their antiquarian researches into Andrew Jackson's and Felix Grundy's letters ten or twenty years ago, and into Martin Van Buren's and Thomas H. Benton's six or eight years ago—letters which every public man is called upon to give to his neighbors or constituents; which no public man ought to refuse, or, in all probability, ever did refuse; and which are so ostentatiously paraded in the report, and so emphatically read in this chamber, with pause and gesture, and with such a sympathetic look for the expected smile from the friends of the bank; letters which, so far as he was concerned, had been used to make the committee the organ of a falsehood. And now Mr. B. would be glad to know who put the committee upon the scent of those old musty letters, for there was nothing in the resolution under which they acted to conduct their footsteps to the silent covert of that small game.

But Mr. B. was done for the present. He was done for the present, but not for the future. Justice cannot he done upon this report of the committee until it is printed. The only object which he now had in view was to vindicate some gentlemen, including himself, who were most unjustly treated, and to show the true character of the entire report, by exhibiting the minute diligence and miraculous success of the committee in hunting out things of nothing, to be turned to the account of the bank, and to the prejudice of its adversaries, while stone blind to such recent and such enormous misconduct of the bank as he had just detailed to the Senate, and which came within the precise letter of the resolutions under which they acted.

Mr. TYLER said that nothing would please him more than to have the report of the committee which had been so furiously assailed by the Senator from Missouri referred to another committee for their most rigid examination, and he would like the honorable Senator [Mr. BENTON] to be one of the committee. Let the honorable Senator summon his witnesses and take depositions without number—let him then return with his budget to this House, and lay them, with or without an air of triumph, on the table. But he would find himself mistaken. All his witnesses combined would not be able to overthrow the testimony upon which the report of the committee is based. There is not a single declaration in the report which is not founded upon testimony which cannot lie—written, documentary evidence, which no party testi-

mony can overcome. In times like these, the gentleman might be able to procure witnesses without number; but here (said Mr. TYLER, laying his hands on the documents and papers referred to in the report) is proof too strong for the most furious partisan to assail with success. Upon it, he, for one, would rest.

The honorable Senator had denominated the report "an elaborate defence of the bank." He had said that it justified the bank in its course of curtailment during the last winter and the early part of the summer. Sir, if the honorable Senator had paid more attention to the reading, or had waited to have it in print, he would not have hazarded such a declaration. He would have perceived that that whole question was submitted to the decision of the Senate. The committee had presented both sides of the question—the view most favorable, and that most unfavorable, to the institution. It exhibited the measures of the Executive and those of the bank consequent upon them on the one side, and the available resources of the bank on the other. The fact that its circulation of $19,000,000 was protected by specie to the amount of $10,000,000, and claims on the State banks exceeding $2,000,000, which were equal to specie—that its purchase of domestic exchange had so declined from May to October as to place at its disposal more than $5,000,000; something more than a doubt is expressed whether, under ordinary circumstances, the bank would have been justified in curtailing its discounts. So, too, in regard to a perseverance in its measures of precaution as long as it did, a summary of facts is given to enable the Senate to decide upon the propriety of the course pursued by the bank. The effort of the committee has been to present these subjects fairly to the Senate and the country. They have sought "nothing to extenuate," nor have they "set down aught in malice." The statements are presented to the Senator, for his calm and deliberate consideration—to each Senator, to be weighed as becomes his high station. And what is the course of the honorable Senator? The moment he (Mr. T.) could return to his seat from the Clerk's table, the gentleman pounces upon the report, and makes assertions which a careful perusal of it would cause him to know it does not contain. On one subject, the controversy relative to the bill of exchange, and the damages consequent on its protest, the committee had expressed the opinion that the Government was in error, and he, as a member of that committee, would declare his own conviction that that opinion was sound and maintainable before any fair and impartial tribunal in the world. Cartain persons started back with alarm at the mere mention of a court of justice. The trial by jury had become hateful in their eyes. The great principles of magna charta are to be overlooked, and the declarations contained in the bill of rights are become too old fashioned to be valuable. Popular prejudices are to be addressed, and, instead of an appeal to the calm judgment of mankind, every lurking prejudice is to be awakened, because a corporation, or a set of individuals, have believed themselves wronged by the accounting officers of the Treasury, and have had the temerity and impudence to take a course calculated to bring their rights before the forum of the courts. Let those who see cause to pursue this course rejoice as they may please, and exult in the success which attends it. For one, I renounce it as unworthy American statesmen. The committee had addressed a sober and temperate but firm argument upon this subject to the Senate; and standing in the presence of that august body, and before the whole American people, he rested upon that argument for the truth of the opinion advanced. An opinion, for the honesty of which, on his own part, he would avouch, after the most solemn manner, under the unutterable obligations he was under to his Creator.

The Senator had also spoken in strong language as to that part of the report which related to the committee of exchange. He had said that a false issue had been presented—that the late Secretary of the Treasury [Mr. Taney] had never contended that the bank had no right to appoint a committee of exchange—that such a committee was appointed by all banks. In this last declaration the gentleman is correct. All banks have a committee to purchase exchange. But Mr. T. would admonish the gentleman to beware. He would find himself condemning him whom he wished to defend. Mr. Taney's very language is quoted in the report. He places the violation of the charter distinctly on the ground that the business of the bank is intrusted to three members on the exchange committee, when the charter requires that not less than seven shall constitute a board to do business. His very words are given in the report, so that he cannot be misunderstood; and the commentary of the committee consists in a mere narrative of facts. Little more is done than to give facts, and the honorable Senator takes the alarm, and, in his effort to rescue the late Secretary from their influence, plunges him still deeper into difficulty.

The Senator had loudly talked of the committee having been made an instrument of by the bank. For himself, he renounced the ascription. He would tell the honorable Senator that he could not be made an instrument of by the bank, or by a still greater and more formidable power, the administration. He stood upon that floor to accomplish the purposes for which he was sent there. In the consciousness of his own honesty, he stood firm and erect. He would worship alone at the shrine of truth and of honor. It was a precious thing in the eyes of some men to bask in the sunshine of power. He rested only upon the support which had never failed him, of the high and lofty feelings of his constituents. He would not be an instrument even in their hands, if it were possible for them to require it of him, to gratify an unrighteous motive.

He had not called for General Cadwallader's report upon the subject of the branch at St. Louis, because he did not see the necessity for it. The bank was charged, in the report of the committee of the other House, in 1832, with having established branches without other motive than the spread of its influence. This is the charge which was inquired into, and the gentleman's letter, forwarding the application of the citizens of St. Louis, and that of Mr. Rush, the Secretary of the Treasury, contained high evidence of the propriety of the establishment of a branch at that place, and relieved the bank from any improper ascription as to that branch. The report stated the fact that the Senator wrote that letter. Was it true or false?

[Mr. BENTON. True! true!]

As well, said Mr. T., might the Senator from Tennessee [Mr. GRUNDY] complain that his first application, in 1817, for a branch at Nashville, was rejected, as well as all subsequent applications until 1827. The honorable Senator, after all, has no great cause to complain of the bank in regard to the branch at St. Louis. True, when he smiled, the bank refused: he gave it a blow, and straightway it was kind. Whether his smiles or frowns obtained the branch did not seem to him, (Mr. TYLER,) to alter the matter. The gentleman had said that he was in good company. True, he stands in good company. Perhaps he could not have selected a company to suit him better. To be with you, sir, (addressing himself to the VICE PRESIDENT,) would be high honor; but to have you and the President of the United States along with him is certainly no ordinary good fortune. He had one word more to say on this subject. It was due to the committee to say, that the facts adduced upon this point of inquiry were elicited in the prosecution of their legitimate inquiries relative to the management of the bank.

They sought cause of offence to no one; but they could not withhold information necessary to an elucidation of the question.

The gentleman had complained of a publication by the bank of a review of his speech. Mr. T. said that he too complained of the extent of the publications of the bank. He knew that the gentleman had been frequently reviewed—he had probably still to pass through other editions—but if the Senator had delayed his attack on the report for a few hours, until he could have read the documents, he would have seen a full account of "the review," and also of "General Jackson vetoed," (alluding to a publication paid for by the bank.) Now, sir, I object to all this; and this elaborate report in defence of the bank condemns these publications, and others of a similar character, as highly impolitic. He charges the committee with having endorsed falsehoods. [Here Mr. BENTON disclaimed any personal allusions.] I do not believe there ever has been any thing in our past lives that could lead to any personal difference between us. But, said Mr. T., as one of the committee, I must defend the report against this charge. There is not an assertion in it which is not sustained by proof. If the honorable Senator will look to the report, he will find no charge against the President of vindictiveness, or an attempt to use the bank for political purposes. The first is a quotation from Mr. Duane, late Secretary of the Treasury.

[Mr. BENTON. By quoting it you made it your own.]

Mr. TYLER. Indeed, sir; then the committee has much to answer for. They have quoted numerous passages from Mr. Taney and others, and woful is their plight if they have to answer for all they contain. The committee has quoted the honorable Senator's own letter, in regard to the branch at St. Louis. Now, sir, we claim no divided authorship of that letter, or of the President's or Vice President's for Pensacola or Albany.

One word more before I take my seat. The committee, in their investigations, have sought for nothing but the truth. I am opposed to the bank. In its creation I regard the constitution as having been violated; I desire to see it expire. But the Senate have appointed me, with others, to inquire whether it be guilty of certain charges; and I should regard myself as the basest of mankind, if I could consent to charge it falsely. The report is founded on unquestionable documentary evidence. The gentleman may have as much opportunity as he pleases to review it, and he has already commenced the task, and I shall be ready to answer all the objections that can be raised against it by him or any others, and to prove, from the documents themselves, that the report is made with the utmost fairness, and with the most scrupulous regard to truth.

The printing was then ordered; and

The Senate adjourned over to Monday next.

MONDAY, DECEMBER 22.

GALES & SEATON'S REGISTER OF DEBATES.

Mr. BENTON rose and asked the indulgence of the Senate for a moment, that he might try an issue with Messrs. Gales and Seaton, editors of the Congressional Register, by an inspection of the record. He had stated on Thursday last that they had, in their Register, suppressed two of his main speeches on the Bank of the United States, in 1832, and inserted a falsified account of another. This statement seemed to be denied in the National Intelligencer of this morning;* and he had now brought in the Register, vol. 8, part the first, for the session 1831-32, to verify what he had said. Mr. B. then turned to the Register, for the debates of June 8th and 9th, when, as the Senate would recollect, he spoke at large on the question to engross the bill: he spoke the afternoon of one day and the forenoon of the next. Of all this, about half a column is in the Register; and even that attributed to him things which he had not said, and which he disclaimed. The second suppression was on the return of the bill with the veto message, when he again spoke the afternoon of one day, and some hours of the next. Of all this, scarce a paragraph was to be found in the Register. It was a speech, however, which was well known to the country at the time, and which the Bank of

* The following is the notice, in the National Intelligencer of December 22, to which Mr. BENTON here referred:

"THE REGISTER OF DEBATES.—It has pleased the honorable Mr. BENTON to make an attack, in the Senate, upon the 'Register of Debates,' which we find reported more at large (under the presumed revision of that gentleman) in the Globe, than it was by the reporter for the National Intelligencer. The publishers of that work, not disposed to shrink from any scrutiny into the character of that work, copy from the report of the speech in the Globe so much as relates to that matter:

[Here follows the passage of Mr. BENTON's speech, beginning "That looked bad enough," &c.]

"Mr. BENTON's complaint is not new to the publishers. It had been communicated to them by himself about a year ago, when the eighth volume of the Register of Debates (for 1831-'32) was first published. To that complaint the editors replied. The most compendious answer to the charge now repeated in the Senate may perhaps be made by publishing their reply to the letter of the honorable Senator, (in which, by the way, we find no allusion of any sort to the bank,) as follows:

"THURSDAY, 12 O'CLOCK.

"SIR: Your note of yesterday has just been placed in our hands.

"It is not to avert the purpose of which you apprize us, but in justice to ourselves, that we make the following statement in reply:

"First, the 7th and 8th volumes of the Register of Debates were wholly compiled and prepared for the press by ourselves personally, and we can, with the most perfect sincerity, aver, that, in making up the debates, and having in view solely the character of the work as a permanent and faithful record, we sought to do justice to every member of Congress, without favor or prejudice, personal or political:

"Secondly, That, in accordance with this purpose, we resorted to every source where it was probable authentic materials could be found for the work: That, not confining ourselves to the columns of the Intelligencer, we kept constantly before us files of the Globe and Telegraph, diligently compared the various reports of every debate, invariably selecting that which appeared to us the fullest or most accurate, and in all cases preferring that which bore evidence of the speaker's revision:

"Thirdly, That, in regard to your speeches on the various bank questions, not only did we insert every set speech which we could find reported in any of the papers, but also all reports of your remarks on incidental questions, of which we found many in the Globe not reported elsewhere. So faithfully, indeed, was this compilation performed, especially towards yourself, and so fully, and, as we believed, impartially had we given every thing we could find in the shape of authentic remarks by you, that had we tasked our thoughts for an individual who, less than any other member in Congress could complain of injustice, it would have been yourself.

"As to the particular report to which you refer as injurious to you, all we have to say is, that neither of us was in the Senate when the debate, or altercation, took

the United States had reviewed, and seventy-five thousand copies printed and circulated. Mr. B. said the editors of the Intelligencer had undertaken to show there could be no suppression, because they had inserted a great many long columns of his speeches in their Register. He said it would not require a yard-stick to measure what they had inserted for him on these two occasions, when he spoke part of two days at each time; a barley-corn would do for the measure. They were about the length of a barley-corn, as they appeared in the Register. The third point that he complained of was that of inserting under his name a falsified account of an unpleasant altercation which grew out of the debate on the veto message. He had qualified that account of that altercation by the epithets which it deserved, on Thursday last, when he branded it as an infamous falsification of the truth.

It was Mr. B's intention, at some suitable time, to have a committee to examine into these Registers, and that with much larger views than would relate to the personal injury done to himself. For the present he had no object but to try an issue, by inspecting the record: he had done this, and shown the volume and page, day and year, subject and occasion, on which his speeches were suppressed and falsified.

PRESENTS FROM FOREIGN POWERS.

The joint resolution from the House, authorizing the sale of the lion and horses presented to the United States consul at Tangiers, by the Emperor of Morocco, was read twice; when

Mr. CLAY said, as there was no very appropriate committee to which the resolution could be sent, he would move to refer the resolution to the Committee on Agriculture.

Mr. KING, of Alabama, observed that, as the presents appeared to be connected with our foreign relations, he thought the Committee on Foreign Relations the most appropriate one for the resolution to be sent to.

Mr. CLAY objected to that reference, as the animals, he was informed, were now in this city, and the subject was not connected with our foreign affairs.

Mr. KING replied that, if the Committee on Agriculture desired to take charge of the subject, (not being himself on the committee,) he had no objection. But, as it appeared that our consuls and other public functionaries could receive no presents from foreign Powers, and, in previous instances, when induced to do so rather than give offence to those who presented them, they had been sent to the Government, he thought the committee he had indicated the most suitable one. But if the Agricultural Committee were desirous of using the horses, he (Mr. K.) had no objection.

The resolution was referred to the Committee on Agriculture.

FRENCH SPOLIATIONS.

The bill providing indemnity to American citizens who suffered by spoliations on their commerce, committed by the French prior to 1800, was taken up as the unfinished business; when

Mr. SHEPLEY rose and spoke as follows:

Mr. President: When I consider the importance of the bill now under consideration, I cannot forbear asking again the indulgence of the Senate, while I turn to the published documents of this Government, and, from them, attempt to show the justice of the measure contemplated by this bill. I am aware that it will be but a very limited and imperfect exhibition of the merits of the bill to occupy the time of the Senate by a dry recital of State papers; and yet, that is nearly all that I propose to do. I shall attempt to show from such documents that the property of our citizens was illegally taken from them by France; that their right to have ocmpensation from France was recognised by the United States; that it was also admitted by France; that France had claims against the United States, the justice of which, to some extent, was not denied; that compensation for these injuries might have been obtained from France, if we had been willing to institute a commission for mutual compensation for injuries. France offered this. That compensation was not obtained, because the United States chose to discharge these claims for the purpose of obtaining a discharge of her obligations to France. The right to compensation was not destroyed by a state of war.

For the purpose of showing the character of the injuries inflicted upon our commerce, it will be necessary to examine the commercial relations between this country and France at that time.

By the treaty of amity and commerce of the 6th of February, 1778, article 23d, it is provided that it shall be lawful for the subjects of France, and the people of the United States, "to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are, or hereafter shall be, at enmity with the Most Christian King or the United States." And this, "not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince, or under several." And it is hereby stipulated that free ships shall also give a freedom to goods; and that every thing shall be deemed to be free and exempt," although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted.

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place, and that we inserted that report which we were informed and supposed to be a correct one. It had appeared in the Intelligencer uncontradicted, unimpeached, and we had no suspicion that it was inaccurate. That the appearance of that report in the Intelligencer was the cause of your withdrawing your subscription from the paper, in August, 1832, we were entirely ignorant until a short time since, when you yourself informed us of it. We had attributed the withdrawal to a different cause.

"We will only add that we consider the Register of Debates as a work of history, involving the character of our legislative councils and of our public men. The work will transmit both to posterity, and will be referred to as authority. We are aware of the responsibility we assume in editing it; and we hold that we should be faithless to our trust, faithless to our country, and to ourselves, if we permitted any personal favor or prejudice, or any perishable motive whatsoever, to betray the confidence which Congress and the public have reposed in our fidelity.

We remain, respectfully,
Your obedient servants,
GALES & SEATON."

"As a mere matter of curiosity, we have turned over the pages of the volume of Debates in which Mr. B. charges suppression of his speeches. The whole number of pages devoted to the Senate debates in that volume is 654, each page containing two columns; in the whole, 1308 columns. Divided among the forty-eight members who compose that body, the proportion to be occupied by each, if the proportion appropriated to each were equal, would be between 27 and 28 columns. We find, on hasty measurement, that the remarks of Mr. BENTON, interspersed through the volume, occupy more than 100 columns, of which more than 50 relate to the Bank of the United States, the subject in regard to which the charge of suppression is applied."

The 24th article enumerates the goods which are to be regarded as contraband.

The 25th article prescribes that, in case either party shall be engaged in a war, its ships and vessels "must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship," according to the form annexed to the treaty. This was to be the evidence of the property of the ship as respects its national character.

It was during the existence of this treaty, admitted by both parties to be then obligatory upon the parties to it, that the first clause of the complaint arose.

By a decree of the National Convention of France, of the date of 9th May, 1793, it is declared: "Art. 1. The French ships of war and privateers may arrest and bring into the ports of the Republic the neutral vessels which shall be laden, wholly or in part, either with articles of provisions belonging to neutral nations and destined to an enemy's port, or with merchandises belonging to an enemy."

The same Convention, on the 23d of the same month, declared, by decree, "that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May." This decree of the 23d was repealed on the 28th of May.

The Convention, on the 1st of July, again decreed that the vessels of the United States were not comprehended in the decree of the 9th of May. And the decree of the 27th July again "maintained the dispositions of that of the 9th of May."

The Executive Directory, on the 2d of July, 1796, declared "that neutral and allied Powers shall, without delay, be notified that the flag of the French Republic will treat neutral vessels, either as to confiscation, as to searches or capture, in the same manner as they shall suffer the English to treat them."

And on the 2d March, 1797, the Directory decreed "that the French vessels of war and privateers may stop and carry into the ports of the Republic neutral vessels which may be found loaded entirely or in part with merchandise belonging to the enemy."

The French Minister of the Marine and of the Colonies, on the 30th April, 1797, declares: "Every American ship must have a passport and a role d'equipage (ship's roll)—I mean a liste d'equipage (crew list.) Whereas, without these papers, she ought to be confiscated." And he gives reasons for it; and yet the passport only was required by the treaty, as was afterwards admitted by France.

The Council of Five Hundred, on the 11th January, 1798, decreed that "the character of the vessel, relative to the quality of neuter or enemy, is determined by her cargo."

An extraordinary tribunal was made the organ to decide upon prizes, by a decree of 8th of November, 1793, declaring "the validity or invalidity of prizes made by privateers shall be decided by way of administration by the Provisory Executive Council."

All these decrees, and the proceedings under them, were not only in direct violation of the treaty and the articles recited, but so far these depredations on our commerce took place before the passage of the act of Congress of the 7th of July, 1798, annulling the treaties.

The right of the citizens to have compensation from France was, as I have said, recognised by the United States.

The Secretary of State, Mr. Jefferson, in a circular letter addressed to the merchants, under date of August, 1793, says: "I have it in charge from the President, to assure the merchants of the United States, concerned in foreign commerce or navigation, that due attention will be paid to any injuries they may suffer on the high seas or in foreign countries, contrary to the law of nations or to existing treaties; and that, on their forwarding hither well-authenticated evidence of the same, proper proceedings will be adopted for their relief." And in a letter to our minister to Great Britain, under date of April 26, 1797, the Secretary says "that nearly all the vessels, or cargoes, or both, which are carried in by their privateers, are condemned by the civil officers on shore. Besides, when he (Mr. Adet) mentions unauthorized captures, he connot refer to the multitude which we complain of as made in direct violation of our treaty with France."

In the instructions to our envoys to France, under date of July 15, 1797, is this declaration: "Indeed, the greater part, probably nearly all the captures and confiscations in question, have been committed in direct violation of that treaty, or of the law of nations."

The President of the United States in his speech of the 8th of December, 1798, speaking of a decree of the Directory, says "it enjoins them to conform to all the laws of France relative to cruising and prizes; while these laws are themselves the sources of the depredations of which we have so long, so justly, and so fruitlessly complained." So perfect was the right of the citizens to have compensation regarded, that in the instructions, under date of 22d October, 1799, to our envoys to France, is this clause:

"First. At the opening of the negotiation, you will inform the French ministers that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures, or condemnations of their vessels and their property, under color of authority or commissions from the French Republic or its agents."

It remains next to accertain whether France did not admit her obligation to make compensation.

In the deliberations of the Executive Directory, on the 31st July, 1798, it is stated that such information has been received as to "leave no room to doubt that French cruisers, or such as call themselves French, have infringed the laws of the Republic relative to cruising and prizes." And in a decree of the 18th March, 1799, the Executive Directory admits that the former decree, "in what relates to the roles d'equipages with which neutral vessels ought to be furnished, has had improper interpretations, so far as concerns the roles d'equipages of American vessels, and that it is time to do away the obstacles resulting therefrom to the navigation of the vessels of that nation."

Our envoys claiming compensation from France, find France also claiming a fulfilment on our part of the treaties; and in their letter of 17th May, 1800, to the Secretary of State, they say: "Our success is doubtful. The French think it hard to indemnify for violating engagements, unless they can thereby be restored to the benefits of them." The objection here then is not to making an indemnity, but to making it without having the benefit of the same treaties, for the violation of which we claimed of them compensation.

The French ministers, in their proposal to the American envoys, under date of the 11th August, 1800, say: "Thus, the first proposition of the ministers of France is to stipulate a full and entire recognition of treaties, and the reciprocal engagement of compensation for damages resulting on both sides from their infraction." If this is not accepted, they then propose "the abolition of ancient treaties," and in such case "there would be no demand of compensation." Here, then, is an offer of compensation for injuries to our citizens, made by France; but she claimed compensation from the United States for the non-fulfilment of the treaties, and that the compensation should be reciprocal.

These claims of France against the United States arose out of our neglect or refusal, as she alleged, to fulfil the stipulations of treaties. They were, first: the 11th article of the treaty of alliance of 6th February, 1778. This article stipulated the guarantee should be on the part of "the United States to his Most Christian Majesty, the present possessions of the Crown of France in America, as well as those which it may acquire by the future treaty of France."

And, secondly, the 17th and 22d articles of the treaty of commerce of the same date. By the first of these articles, the privateers and prizes of France might enter our ports and depart at pleasure, and the privateers and vessels of the enemies of France were excluded from our ports. And the latter article prohibited the privateers of the enemies of France from being fitted out in our ports, and sale of their prizes being made in them, or even provision furnished, more than was necessary for their going to the next port. The importance of the stipulations to France will be readily acknowledged when we remember that she was at war with England; that she had islands in the West Indies to be preserved; that, by having a place of refuge in our ports for her armed vessels, she could greatly harass and injure the very extensive commerce of England in the West Indies; take her vessels and retreat in safety with them to our ports. Our Government, it is well known, determined to maintain a strict neutrality between the contending parties, and refused to France the advantages which these treaties gave her; and this course was the occasion of great complaint, and of a very sharp correspondence between the ministers of France and of this Government.

In the course of the negotiation to settle the difficulties between the two nations, our ministers, not being authorized or willing to agree to "the reciprocal engagement of compensation for damages resulting on both sides" from the breach of the treaties, as proposed by France, offered finally, in their letter of the 20th of August, 1800, that the ancient treaties should be renewed andc onfirmed, with certain modifications. These were, that the articles respecting privateers and prizes should be so modified as, upon payment of 3,000,000 francs within seven years, no greater rights than those of the most favored nations should exist. And that the mutual guarantee should, for the future, be considered as fulfilled, by affording aid to the amount of 1,000,000 francs when either party was attacked; and that either party might "exonerate itself wholly from its obligation by paying to the other, within seven years, a gross sum of 5,000,000 francs, in money, or such securities as may be issued for indemnities;" and that "there shall be a reciprocal stipulation for indemnities, and these indemnities shall be limited to the claims of individuals." It will be noticed here that the United States ministers do not offer to France any compensation for the injury to France, as a nation, for the claims respecting the guarantee and the privileges for privateers and prizes for the past.

The French ministers, on the 25th of August, say that their proposal to confirm the ancient treaties, and for mutual compensation, "did away all idea of a modification;" and that, as the American ministers had proposed an essential modification of the 17th article, "it is therefore evident that this note refers to the second part of the alternative, which consisted of a new treaty, without indemnity." "The French ministers therefore insist upon the condition, that all stipulation for indemnities be laid aside." They make the following propositions to our ministers:

"1st. The ancient treaties shall be continued and confirmed, to have their full force, as if no misunderstanding between the two nations had ever occurred.

"2d. Commissioners shall be appointed to liquidate the respective losses.

"3d. The 17th article of the treaty of commerce of 1778 shall be continued in full force, with a single addition, immediately after these words, to wit: 'And on the contrary, no shelter shall be given in their ports or harbors to such as shall have made prize of the subjects of his Majesty, or of the citizens of the United States,' there shall be added 'if it be not in virtue of known treaties on the day of the signature of the present, and subsequent to the treaty of 1778, and that for the space of seven years.' The 22d article subject to the same reservation as the 17th article.

"4th. If, during the term of seven years, the proposal to establish the 17th and 22d articles be not made and accepted without reserve, the award for indemnities determined by the commissioners shall not be allowed.

"5th. The guarantee stipulated by the treaty of alliance shall be converted into a grant of succor for two millions. But this grant shall not be redeemable unless by a capital of ten millions."

These proposals not being satisfactory to the American ministers, the French ministers made, on the 4th of September, 1800, proposals anew:

"We shall have the right to take our prizes into the ports of America.

"A commission shall regulate the indemnities which either of the two nations may owe to the citizens of the other. The indemnities which shall be due by France shall be paid by the United States. And in return for which, France yields the exclusive privilege resulting from the 17th and 22d articles of the treaty of commerce, and from the rights of guarantee of the 11th article of the treaty of alliance."

The American ministers answer on the 6th September, and say these proposals are inadmissible, "the nearest approach to them" is,

"1st. The former treaties shall be renewed and confirmed.

"2d. The obligations of the guarantee shall be specified and limited as in the first paragraph of their third proposition of the 20th of August.

"3d. There shall be mutual indemnity and a mutual restoration of captured property not yet definitely condemned, according to their fifth and sixth propositions of that date.

"4th. If, at the exchange of ratifications, the United States propose a mutual relinquishment of indemnity, the French Republic will agree to the same, and in such case the former treaties shall not be deemed obligatory, except under the seventeenth and twenty-second articles of that of commerce, the parties shall continue for ever to have for their public ships of war, privateers, and prizes, such privileges, in the ports of each other, as the most favored nation shall enjoy." The American ministers requested a conference to consider these propositions; and in their journal, under 12th September, they say, "The first and third were agreed to, with some modification of the third as to the rules of evidence, which did not vary its principle." The second and fourth were considered together, as in some measure connected, and, after considerable discussion, the French ministers said, unless an option perfectly similar and reciprocal was assured to the French Republic, the operation of which would enable her to get rid of the indemnities, by an offer of abandoning the exclusive privileges, they could not agree to it.

Here it will be noticed that it was agreed that, upon the former treaties being confirmed, indemnities should be paid, but France would not yield her exclusive rights under the treaties, but by payment being made to our citizens by their own Government, or by a relinquishment of indemnities. Our ministers were not authorized

to relinquish the indemnities, or to provide for their payment by the United States; and hence they say, on the 13th September, in their journal, that "being now convinced that the door was perfectly closed against all hope of obtaining indemnities with any modifications of the treaties, it remained only to be determined to attempt a temporary arrangement, which would extricate the United States from the war, or that peculiar state of hostility in which they are at present involved."

This is not an allegation that indemnity could not be obtained at all, but only that it could not be obtained without a performance on our part of the obligations into which we had entered by our treaties with France.

Here, then, let us contemplate the condition of the negotiation and state of facts admitted by both parties. We have seen that the proposals of the American ministers that the former treaties be confirmed, and that there should be mutual indemnities, were agreed to. But the French ministers would not assent to the Americans only having the right to relinquish the indemnities as a consideration for their discharge from the seventeenth and twenty-second articles of the treaty of commerce. Let it be remembered, that the claims of France cannot be regarded as destroyed by the act of July 7th, 1798, annulling the treaties, even if we admit that one party to a treaty can annul it by a legislative act. Both parties to the treaties admitted their validity until that act of 1798 was passed. For five years before the treaties were declared by the United States to be annulled, France had not had the benefit of the peculiar privileges secured to her. Not that the administration of that day is blamed. It might be wise to refuse to grant these privileges, and rely upon making a proper recompense, or upon finding an excuse for refusing it in the wrongs done to us. Our Government is a parental Government. It was framed and exists for the promotion of the happiness of the people; for the protection and security of the rights and property of the citizens. It was bound by every duty to obtain indemnity for these citizens, if it could do so consistently with its duties to other citizens. It could have obtained compensation for them without imposing any heavier burden upon other citizens than a performance of the duties enjoined by existing treaties. Or it might have obtained indemnity for these classes by causing their losses to be made good by all the citizens; that is, by the nation, as a consideration of a discharge from the treaty stipulations. Was is not just that the consideration for the discharge of the treaty stipulations should be borne by the whole, and not by a portion, and an unfortunate portion of its citizens? This Government cannot plead that it will not obtain an indemnity for its citizens of France, because France had claims against the United States of a national character to a like amount. It should keep the claims of the citizens against France separate from the claims of a national character against itself. If France had claims against the United States, those should have been satisfied by the whole people of the United States; and to make use of such claims against itself as an excuse for not obtaining compensation for losses incurred by a portion of its citizens, is to impose upon that small portion the burden which should be borne by the whole. It is, in effect, to take private property for public uses without just compensation.

And if this has been done, the claimants are entitled to a fair compensation.

The indemnities were not abandoned by the negotiators, but they postponed the further discussion of the claims, on each side, to a future day, and on the 30th September concluded and signed a treaty, the second article of which is as follows:

"ARTICLE 2. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

On the 3d of February, 1801, the treaty was ratified by the Senate, "provided the second article be expunged," and by adding an article limiting the operation of the treaty to a term of eight years.

On the 31st of July, 1801, it was also ratified on the part of France, agreeing to the limitation, and to "the retrenchment of the second article, provided that by this retrenchment the two States renounce the respective pretensions which are the object of the said article."

On the 19th of December following, the treaty was again submitted to the Senate, which "resolved, that they considered the said convention as fully ratified."

This is the history of the final discharge of France from all obligation to compensate our citizens for losses. It was effected by the act of this Government, in expunging the second article of the convention, and regarding it as fully ratified, with the express provision annexed by France, that it was a renunciation, by each nation, of its claims. Thus, also, the United States were for ever discharged from the onerous burdens of the ancient treaties, and from all claim of indemnity, for refusing to France the privileges which they secured to her. And at the same time, and by the same act and instrument, these claimants were for ever deprived of obtaining that indemnity from France, which, if these claims had been kept separate, and never had been connected with any subject of national grievance, they most certainly would have obtained. The history of negotiation cannot show a more direct surrender of an admitted claim, as a consideration of the release of an obligation. France always offered to set off one class of claims against the other; the envoys of the United States refused it; the Senate and the French Government agreed to it, and accomplished it. Nor was the right to compensation destroyed by a state of war. Neither nation regarded the right to claim, or the obligation to compensate, as destroyed, on account of an existing war. The United States claimed an indemnity as an existing right; and France admitted the claim to be good. It is true that the United States authorized the capture of the vessels of France on the high seas, but they declared it to be only in defence of the persons and property of their citizens. War was not declared by either nation. And, in the convention of 30th September, 1800, the claims on both sides were, by the second article, regarded as subsisting and valid. This would not have been done, if war had destroyed the right to have a future negotiation and compensation. France, in her negotiations, declared, as our envoys say, that her object was to avoid making compensation for these claims, because she would find herself too much exhausted by the war to satisfy them; and yet, anxious as she was, she never insisted upon a discharge, because a state of war had existed.

On the 16th August, 1798, the Executive Directory declare their wish "to pursue the friendly habits of France towards a people whose liberty it defended." And, at the same period, the Minister of Marine says: "Our political situation, with regard to the United States citizens, not having as yet undergone any change which can effect the respect due to neutral nations," "no injury should be done to the safety and liberty of the officers and crews of any American vessels."

The French ministers, in their letter of the 6th of

May, 1800, speak of the "misunderstanding" and "transient misunderstanding."

And in their letter of the 11th of August following, the French ministers say "that the treaties which united France and the United States are not broken; that even war could not break them; but that the state of misunderstanding which has existed for some time has not been a state of war, at least on the side of France." By saying the treaties are not broken, the French ministers could not be regarded as intending to say that they had not been in many instances violated, as they had both demanded and yielded to a compensation, as proper for such violations.

The Minister of Exterior Relations, (Talleyrand,) in a letter of August 28, 1798, says: "Therefore, it never thought of making war against them, nor exciting civil commotions among them; and every contrary supposition is an insult to common sense."

On the part of the United States, it is well known that she always professed and determined to maintain a neutral position. In the instructions to our envoys, 22d October, 1799, it is said, "this conduct of the French Republic would have well justified an immediate declaration of war on the part of the United States; but, desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparation for defence, and measures calculated to protect their commerce."

The American ministers, in a letter dated 20th August, 1800, speaking of the act of Congress annulling the treaties, say, if it "had amounted to a cause of war, yet, as the wisdom of France reconciled it to peace, its application, on the principle of war, to the extinguishment of claims, would be inexplicable." Many other documents might be adduced to prove the positions which have been taken, but I forbear, my object being only to exhibit sufficient to show the relations of the two nations, and the manner in which these claims were discharged. Does it become the United States now to allege that these claims should not be paid by her, for other and different reasons than those which France used to avoid compensation? France never seriously maintained that the claims were extinguished by war; and how can the United States now introduce such a defence?

As to the amount of compensation, there may not be any very certain and definite proof of it. It appears from a letter of the Secretary of State to a former chairman of a select committee, under date of 22d January, 1827, that there were four hundred and forty-four cases then reported to that Department. I am informed that there were 175 cases filed before the commissioners under the Florida treaty, other and different from those comprising the 444 before named, making 619 cases which are known. There are probably others. Five millions, divided among the 619 cases, would give but little over $8,000 to each case as an average. It is probable the average value would be much greater than that sum.

There is an estimation of losses accompanying 88 out of the 444 cases; the aggregate of which is stated to be $2,235,702 59.

If all the cases were to exhibit losses as great as these, the amount of the losses would be more than eleven millions. But it is not supposed that all the cases were so valuable.

The amount offered by the United States to France, to be released from the stipulations of the treaties, as we have seen, was 8,000,000 francs. France offered to receive 10,000,000 for the extinction of the guarantee, but would offer no sum for the relinquishment of her exclusive privileges under the treaty of commerce. It may be inferred from this, that both nations considered that the claims would amount to more than these sums—as France was anxious to set off the claims against the stipulations of the treaty, and the United States declined it, until it was done as before stated. It may be proper to remark that these 619 cases are of an entirely different character, or are alleged to be so, from those for which recompense was obtained under the Louisiana treaty, or under the Florida treaty; and if they do not so prove to be, no compensation can be made by the bill, as it does not provide for such as were provided for under those treaties. Our debt is paid. Compensation has been secured by treaty for all, or nearly all, the injuries which our citizens have suffered from other nations. Can the high character of this nation for doing justice to all, at home and abroad, be maintained without making compensation for these injuries, which have been the consideration of procuring for her a discharge from very onerous obligations? If the bill may pass, the only great claim remaining will be satisfied, and the duties of the Government, to do justice to all, will have been fulfilled. If these claims are just, all fear for evil consequences to arise from their allowance may be dismissed. Things are rightly so ordered here, that to do justice to all others is to serve ourselves best.

When Mr. SHEPLEY had concluded his remarks,

On motion of Mr. POINDEXTER, the Senate went into the consideration of executive business; after which,

The Senate adjourned.

TUESDAY, DECEMBER 23.

LAFAYETTE.

Mr. CLAY, from the joint committee, appointed at the last session of Congress, on the subject of the oration contemplated to be delivered commemorative of the life and character of General Lafayette, made a report thereon, concluding with the following joint resolution:

Resolved by the Senate and House of Representatives, That Wednesday, the 31st instant, be the time assigned for the delivery of the oration by JOHN QUINCY ADAMS, before the two Houses of Congress, on the life and character of General Lafayette;

That the two Houses shall be called to order by their respective presiding officers at the usual hour, and the journal of the preceding day shall be read, but all legislative business shall be suspended on that day;

That the oration shall be delivered at half-past twelve o'clock, in the hall of the House of Representatives;

That the President of the United States and the heads of the several Departments, the French minister and members of the French legation, all other foreign ministers at the seat of Government, and the members of their respective legations, be invited to attend on that occasion by the chairman of the joint committee;

That the President of the United States, the heads of the several Departments, the French minister and members of the French legation, the other foreign ministers at the seat of Government, and the members of their respective legations, and JOHN QUINCY ADAMS, be requested to assemble at half-past twelve o'clock, P. M. in the Senate chamber, and that they, with the Senate, shall be attended by the joint committee to the hall of the House of Representatives;

That the galleries of the House, under the direction of its officers, shall be open on that day for the accommodation of such citizens as may think proper to attend.

Mr. C., in continuation, observed that a similar report would that morning be made in the other House; and that, as the resolution under which the committee had acted originated there, it was not deemed necessary to proceed further until after some action was had in

that House. He moved, therefore, that the whole subject be for the present laid on the table; which motion was adopted.

FRENCH INSTRUCTIONS.

Mr. CLAY rose and said: The Senate would recollect that that part of the President's message which relates to our foreign affairs was referred to the committee on that subject shortly after its organization. It was deemed essentially necessary, in order to form a correct judgment on the measure recommended by the President, that the instructions transmitted to our diplomatic officers near the coast of France, together with the correspondence that passed between the two Governments since the 2d of February, 1832, should be submitted to the committee, for the purpose of enabling them to form an opinion on the subject. Entertaining this view of the matter, a letter was addressed by the chairman of the committee to the Secretary of State, who very promptly transmitted the documents; but he did so, based upon the condition that they were to be regarded as confidentially communicated. Now, it seemed that the President had recommended a public measure, and that recommendation had been publicly referred to the Committee on Foreign Relations, and as that committee was to make public the report, they could not recommend any legislative action under the restrictions imposed upon them by the Secretary on transmitting to them the correspondence. That officer, in his letter, intimated that if it should be deemed of importance that these documents should be made public in any contingency, he expected that a call would be made on the Executive in the usual form. It was on that account that he presented this resolution, which called for the documents to which he referred. It would have been his personal wish that the Senate should have adopted the resolution to-day; but, in consequence of an intimation which had been given him by an honorable Senator, that he wished it to lie upon the table one day, he forbore to press it at the present time. Mr. C. then offered the following resolution, which was laid upon the table for consideration until to-morrow:

Resolved, That the President be requested to communicate to the Senate (if in his opinion it shall not be incompatible with the public interest) the instructions which have been transmitted from time to time, since the 4th of July, 1831, to the representatives of the United States at the Government of France, relative to the execution of the treaty which was signed on that day between the United States and France; and also all the correspondence which had passed, at Washington or at Paris, between the two Governments, respecting the execution of the said treaty.

FORTIFICATIONS ON THE PATUXENT, &c.

The following resolution, submitted yesterday by Mr. KENT, was considered:

Resolved, That the Committee on Military Affairs inquire into the expediency of making an appropriation for the immediate commencement of fortifications on the Patapsco, at the city of Annapolis, and at St. Mary's, all deemed essential by the board of engineers, in their report dated the 7th February, 1821, for the security of the cities of Baltimore and Annapolis, and for the protection of the commerce of Chesapeake bay.

Mr. KENT then rose and addressed the Chair as follows:

Mr. President: I was induced to present the resolution just read, in consequence of the exposed and defenceless condition of the State of Maryland, and the tardy manner in which the plan for fortifying our seaboard has been carried into effect.

The situation of the State of Maryland is a peculiar one; it is known to the Senate that the Chesapeake bay, a deep and navigable water, of easy access, which, with propriety, might be termed an inland sea, and is sufficient to furnish a harbor and anchorage for all the navies of Europe, divides the State in its entire width from south to north, possessing tributary streams on either shore, extending in every direction, affording facilities of annoyance to a naval Power at war with us, not to be resisted or guarded against by any means within the reach of the State.

It is true we have fortifications of great contemplated magnitude, when finished, at the mouth of the Chesapeake bay, but we are distinctly told by the board of engineers who selected the sites for fortifications in their report, dated the 7th February, 1821, (many of which, if not all of the first class, are now in the progress of completion) that those works were not designed for the protection of the State of Maryland, but for the security of the public docks, &c. at Norfolk.

The report states "that, in the Chesapeake, the proposed works at the entrance of Hampton roads, have for their object to close this road against an enemy, and to secure the interior navigation between the Chesapeake and the more southern States, and to make sure of a naval place of arms, when the navy of the United States may protect the Chesapeake and the coasting trade; to cover the public docks, &c. at Norfolk, and those which may be established in James river; and to prevent an enemy from making a permanent establishment at Norfolk."

In the same report we are informed that Fort McHenry, the only fort (and that in an inefficient condition) that the large commercial city of Baltimore has to rely on for security and protection, has no influence whatever over an attack by land.

Let us read, Mr. President, what the report further states:

"At Baltimore, the forts projected at Hawkins's point, and the shoal of Soller's point, cover the harbor; and the last-mentioned work will force an enemy to land, if he intends attacking the town, at a greater distance from it, and will thus prevent him from turning the defensive position which our forces might take against him. The batteries at St. Mary's secure a good station to the vesels of war charged with guarding the Chesapeake, protect an anchorage accessible by vessels of the largest class; and also do the batteries at Annapolis offer a safe asylum to merchant vessels which might find it impossible to reach Baltimore. St. Mary's is not at all defended, and Fort McHenry, at Baltimore, has no influence whatever over an attack by land, and cannot even secure the city and harbor from bombardment.

Thus, Mr. President, we are informed by the ablest of engineers, that, to afford any thing like security, either to the city of Baltimore, or Annapolis, or the commerce of the Chesapeake bay, it would be absolutely necessary that the fortifications thus designated should be erected at the mouth of the Patapsco, at Annapolis, and St. Mary's.

The resolution I have offered proposes an inquiry, on the part of the Committee on Military Affairs, into the propriety of making an appropriation for the immediate commencement of those works. They are of the 2d and 3d class, and a small appropriation only would be required for their commencement.

There is no State in the Union, accessible to a naval force, with a great inlet from the ocean passing directly and entirely through her territory, that is so totally destitute of any thing like protection as is the State of Maryland. The metropolis of the State, where all the archives of the Government are deposited, might be surprised and captured by a very small force. Its population is inconsiderable, and there is no adequate

defence there. In truth, I might say that there was none that could afford the least protection.

The great commercial city of Baltimore must rely for her security, unaided by proper works of defence, upon the bravery and enterprise of her citizens; and although on a late occasion, with great sacrifices, they were equal to her protection, and in the hour of trial may be relied on to achieve any thing within the power of men similarly situated, Congress will not hesitate, I trust, to afford to her such defences as she is justly entitled to, from her position and her commercial importance.

I do not pretend to apprehend immediate war—a motive of that sort alone did not actuate me in offering the resolution. But, assuredly, our foreign relations are not of the same pacific character that they have been for many years past. Neither shall I attempt to predict how soon war may occur. It is in time of peace that every wise and prudent Government will prepare for war. In a period of war we shall have no money to apply to the erection of fortifications. We should not have competent engineers to spare, to superintend their construction; they would have other and more urgent duties to perform. We should resort to some miserable expedient, as we have done heretofore—a flotilla, or the sinking of ships in the mouths of our harbors—and which, though ineffectual, would cost us nearly as much as permanent and well-constructed works.

I could say much, Mr. President, as to the importance of the city of Annapolis to be possessed by a naval Power at war with us, but I shall forbear for the present, and move the passage of the resolution.

The resolution was then adopted.

FRENCH SPOLIATIONS.

The Senate proceeded to the consideration of the bill providing indemnity to certain American citizens who suffered by spoliations on their commerce, committed by the French prior to 1800.

Mr. HILL rose and said:

Mr. President: During the short time I have been a member of the Senate, I have discovered that claims preferred to Congress stand a much better chance of success than if preferred to almost any other tribunal. In fact, it has become a matter of general remark, that when a claim on the public is before Congress, success depends less on its justice than on the perseverance with which it is pursued.

It is considered little discouragement that a flat denial by one committee is given to a claim; the same claim is frequently, at the same session, preferred in another branch of the Legislature; and if it does not there succeed, it is sure to be followed up at a future session. The value of perseverance is demonstrated in more successful cases than that of Amy Darden's horse, which, after having been brought upon the journals year by year, for at least forty years, was finally paid in the generous year of 1832, when there was so great a desire to get rid of as much money as possible from the treasury, in order that high taxes might be continued, for the benefit of protecting American manufactures!

The bill now under consideration proposes to take directly from the treasury the round sum of five millions of dollars; not that five millions of dollars will cover the whole amount that may be claimed, and ten times five millions would scarcely do that, on the principle that certain commutation claims, principal and interest, had been allowed by Congress; and this sum is to be appropriated, in the first instance, for the benefit of "such citizens of the United States, or their legal representatives, as had valid claims to indemnity upon the French Government, arising out of illegal captures, detentions, forcible seizures, illegal confiscations, and condemnations, made or committed before the year 1800."

The claims for which the bill of the Senate proposes indemnity are of more than thirty-three years' standing. Although, during the whole time since 1802, they have been before Congress, it is very remarkable that it was not until the year 1826 a report in favor of their validity could be obtained in either House of Congress. Such an instance of claim, just or unjust, it is believed, is not presented on the face of your journals since the adoption of the constitution.

That a portion of these claims was originally justly due from France will not be disputed; nor will it be disputed that American citizens had equally valid claims to indemnity from the British Government, "arising out of illegal captures, detentions, forcible seizures, illegal condemnations, and confiscations, made or committed" under her orders in council, prior to the existence of the late war of 1812. The declaration of war by the American Congress, in June, 1812, precluded the prospect of all remuneration from Great Britain for her illegal seizures, as did the declaration of war against France by successive acts of Congress—of May 28, July 7, and July 9, 1798—authorizing the capture of French armed vessels, and declaring such vessels to be good and lawful prize, and declaring the treaties theretofore concluded with France to be no longer obligatory on the United States.

But however just might have been these claims on France, I flatter myself that it may be made abundantly apparent to every impartial and disinterested man, that the Government of the United States, in its own behalf, ought not to be, and is not, responsible for the payment of one cent of them.

In prosecuting the negotiation which terminated in the treaty of September 30, 1800, the United States accomplished more for American citizens than could ever have been reasonably anticipated; they saved an "immense property of our citizens then depending before the French council of prizes." The payment of even this was resisted by the French Government until it was provided for, to be paid by the United States themselves, in the Louisiana treaty.

Urging these claims, appeals are made to motives of benevolence and humanity; they are said to belong to widows and orphans. Very little, it is apprehended, is due to considerations of this kind. In ninety-nine cases out of a hundred it is believed that these claims will go to swell the profits of speculators who have conditionally engaged to pay for them a mere trifle, or to add to the estates of a few men who have made immense wealth as underwriters, or to the enormous gains of ensurance companies. Of the cases of seizure provided for in this bill, it is not probably going too far to presume that in nineteen of every twenty cases the real owner of the property was not the loser. Although the commerce of the country, soon after the war in Europe consequent on the French revolution, was much interrupted by seizures and spoliations, both by Great Britain and France, yet the period from 1793 to 1800 is often referred to by our merchants and ship-owners as being the time, of all others, when they made most money. The Americans not only disposed of their produce at the highest rate, but they were to a great extent the carriers of the belligerent nations. The temptations presented in the facilities for making money were so great that it is not to be wondered at if the Americans frequently violated that strictly neutral character which should have protected their commercial intercourse and relations.

Liable to constant capture or detention, it is presumed that few, very few, American ships went to sea without ample ensurance against loss by capture or otherwise. The greatly-increased profits of American business war-

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ranted the payment of a large ensurance; and if the amount paid for ensurance was lost in one voyage, it was more than made up in the profits of other voyages.

The underwriters and ensurance companies at this time found their greatest harvest. The price of ensurance was raised even greater in proportion than the risk—as high, probably, as fifteen, twenty, and, in some instances, fifty per cent. Now, although these ensurers, standing in the place of the ensured, may have an equitable claim on their behalf upon the foreign nation that should illegally seize the property of a neutral individual, little right have they to exact from their own Government what would amount to an entire cover of the whole risk. If the country should pay the entire loss, so should the country be entitled to the gains of the underwriters. That the underwriters of the time above referred to laid the foundation of immense fortunes, by ensurance of ships and property on the high seas, is abundantly proved by the condition of some of the most wealthy men in the northern States, who have lived, or still are living. These men have accumulated wealth under every treaty that has been made by this Government, procuring indemnity for spoliations; and it is such men, together with other wealthy speculators and corporations, who have bought up these claims for a trifle, who are to be benefited by the passage of this law. There are few poor widows or orphans that will derive advantage from any portion of the immense sum that the bill appropriates. If one ship in three of every ship that sailed had been captured, neither were the underwriters nor owners of such ships the losers; for the first received more than the full amount of loss, and the others made greater profits than they could in a time of profound peace, in the advanced price of the merchandise shipped.

Mr. President, there is little wonder that these claims, for twenty-five years, should have failed to obtain the favorable report of a committee. Should this bill pass, it need not be matter of surprise if other claims of a similar character should follow them, until it shall appear that the United States, as yet, have just begun to discharge the national debt. How many millions sacrificed by other controversies will the Government be not bound to discharge, if it justly owes the claims provided for in this bill?

I shall contend, in the first place, that the controversy with France, giving rise to these claims, terminated in war; and that as war ended all the obligations of prior treaties, so there was on the part of the American Government nothing due to France which could go for a consideration as an equivalent for these claims.

The French Government resisted the payment of these claims when they were first presented, on the ground that war had put an end to them. Messrs. Ellsworth, Davie, and Murray, the American negotiators, repeating the declaration of the President of the French commission, in their journal of September 12, 1800, say: "He would sooner resign than sign such a treaty, (as that they proposed,) adding that, if the question could be determined by an indifferent nation, he was satisfied such a tribunal would say that the present state of things was war on the side of America, and that no indemnities could be claimed. The other two commissioners made similar declarations."

The same gentlemen, September 13, 1800, say: "The American ministers, being now convinced that the door was perfectly closed against all hope of obtaining indemnities with any modification of the treaties," they proceeded to negotiate without. Now, if the door was closed against all hope, what sacrifice for the claimants did the American Government make by agreeing no further to prosecute them?

The treaty of September 30, 1800, was agreed upon as the best for American citizens suffering under French spoliations, that could be procured. The journal of Messrs. Ellsworth, Davie, and Murray, continues: "Nor is it conceived that the treaties between the United States and France have undergone a more qualifying operation than the condition of war naturally imposes. Doubtless the congressional act authorizing the destruction of French cruisers by force was an authorization of war, limited, indeed, in its extent, but not in its nature. Clearly, also, their subsequent act, declaring that the treaties had ceased to be obligatory, however proper it might be for the removal of doubts, was but declaratory of the actual state of things. And certainly it was only from an exercise of the constitutional prerogative of declaring war, that either of them derived validity. So that the treaties in question, having had only the usual inoperation, might, without a breach of faith, have the usual recognition."

Mr. Murray, (p. 662, Senate documents 102,) speaking of the treaty which had just then been executed, says: "Indemnities which were impossible, together with the discussion about the abolished treaties and consular convention, to sleep till a more convenient time."

Mr. Murray again, (p. 676:) "But having no power to dispose of what may be considered as a valuable claim for the future, although I do not consider it as worth a quarter per centum," &c.

Again, same, (p. 682:) "If the Senate meant, by striking out the second article of the treaty, to consider indemnity as worth nothing, then the business, I presume, is closed."

Again, same page: "The absolute want of value in the prospect of indemnities."

From these, and other like statements of the negotiators of the treaty of September 30, 1800, which was the most favorable for the United States and its citizens that could be obtained, it is evident that the treaty was negotiated on the basis of a war; that this state of things had discharged the French Government from all obligations to make restitution for captures and seizures, as it had the American Government from similar obligations to France; and that, as a natural consequence, the American ministers considered the prospect of further indemnity to be worth nothing.

The character of the negotiation was this: France was willing to consider that war had put an end to all prior treaties, and, of course, to indemnities for their infraction. If the treaties were in force, and indemnities for seizures and spoliations were due to the Americans, so also something was due to France from the United States, for their failure under the treaties. The result proved that no indemnity could be obtained from France, and therefore the negotiation terminated, on the admission of both parties, that, as war existed, so indemnity on all hands was abandoned.

Yet, in compliance with instructions from the American Executive at home, the second section of the treaty left the question of indemnity open, or rather evaded the question. That section was in the words following:

"ART. 2. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of the sixth of February, one thousand seven hundred and seventy-eight, the treaty of amity and commerce of the same date, and the convention of the fourteenth of November, one thousand seven hundred and eighty-eight, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation; and the relations of the two countries shall be regulated as follows."

As the treaty was first concluded and ratified by the French Government, including this second article, all the objects of peace and reciprocal intercourse were se-

cured without giving up any demand of our citizens for spoliations; and, at the same time, an "immense property of our citizens, then depending before the French council of prizes," was secured to American citizens.

The treaty or convention, duly signed, was sent to the United States, and submitted by the President to the Senate. The Senate, February 3, 1801, consented to and advised its ratification, provided the second article be expunged, and the following be added:

"It is agreed that the present convention shall be in force for the term of eight years, from the time of the exchange of the ratification." It was so ratified by the President.

Thus altered, the convention was sent back to France, where the First Consul, complaining of the alterations made by the Senate, agreed to ratify it by adding the following clause:

"The Government of the United States having added to its ratification, that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition, importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article."

After these conditional ratifications, and their exchange, President Jefferson submitted the convention anew to the Senate, who resolved that they considered it as fully ratified.

It is most obvious that, in expunging the second article of the treaty, the Senate had no idea of lessening the chance of securing any thing that might be legally due from France to citizens of the United States; and it is equally obvious that, in subsequently tacitly assenting to that article as finally altered by Bonaparte, neither President Jefferson nor the Senate of the United States for a moment considered they were performing an act which should thereafter make the American Government reponsible to individuals for French spoliations.

The act of expunging and otherwise changing the article was performed in the last month of the elder Adams's administration. This first step opened the door for another change of the terms of the treaty by Napoleon; and the new administration of Mr. Jefferson, viewing even the terms of the altered treaty as highly favorable to American citizens—more favorable, probably, than any new negotiation could open to them—readily seized the opportunity of taking the treaty as it was, rather than to throw all the advantages gained at the mercy of future changes and vicissitudes.

Page 698 of the Senate documents, before quoted, the French minister, Talleyrand, repeats, as the suggestion of Mr. Murray, the American minister, that the second article of the convention of September, 1800, was expunged by the American Senate, under the idea that, if retained, it would be "susceptible of producing disquiets in future, by promising nothing but an ulterior and discordant negotiation." And Mr. Madison, Secretary of State, in a letter to Mr. Livingston, before the Senate and President finally assented to the convention, (page 708,) says: "I am authorized to state that the President does not consider the declaratory clause (last introduced by Bonaparte) as more than a legitimate inference from the rejection by the Senate of the second article; and that he (the President) is disposed to go on with the measures due under the compact to the French Republic."

The American Government did go on to execute that compact. March 20, 1801, the Secretary of the Navy directed S. Higginson & Co. to restore the Berceau frigate, captured by Captain Little. The Vengeance and the Insurgente frigates were also restored; the latter having been lost by substitute. The convention provided for the restoration of public ships taken on both sides—also, that all ships and property captured, and not definitely condemned at the time of the negotiation, should be mutually restored. The Government of the United States, as stated by Mr. Madison, paid Mr. Pichon, the French minister, on the general account, $140,841 25, and to individual French subjects $74,667 41. (See doc. p. 720.)

But France delayed restitution, although solemnly bound by the convention of September 30, 1830, until the claims came to be thought of little value. Applications for payment were often made, and as often denied or evaded. Restitution was indeed made by the subsequent treaty of 1803, by which a title to Louisiana was acquired. This restitution would not, even then, have been made, had it not come in conveniently to France, as a part of the nominal price paid for the cession of that valuable territory. Of this price Bonaparte, deprived as he was of the maratime force to protect it, considered the money actually paid as a full equivalent, without including the amount allowed for spoliations under the convention of 1800. He, in fact, set his own price to his minister (Barbe Marbois) at fifty millions of francs, when the latter succeeded in obtaining of Messrs. Livingston and Monroe sixty millions of francs in cash, besides twenty millions allowed for the spoliations. It was considered, at the time, that all which was gained to the American claimants for French spoliations and seizures in the Louisiana treaty, was to them clear gain. Their claims were believed to be hopeless, and the opposition to the American administration opposed the execution of the treaty on account of the alleged "outrageous price" paid for the territory ceded.

In the correspondence relative to the execution of the Louisiana treaty, the twenty millions of francs allowed and paid the claimants are mentioned as "covering all the claims" of the Americans for illegal spoliations and seizures; and in these twenty millions other claims were included than those first comprehended in the list presented by the American minister. (See Talleyrand's letter to Livingston, doc. p. 829.)

Mr. Livingston says sixteen millions would have covered "the debts confined to the words of the convention." Four millions, then, must have been paid to persons whose claims were not acknowledged by France to be legitimate.

Citizen Pichon, the French minister, wrote that cases of capture by the French West India cruisers are included in the fourth article of the treaty, and are ordered to be restored.

Barbe Marbois (doc. p. 826) says, "the sum of twenty millions of francs had been determined on in order to extinguish the whole American claim and the interest up to the day of the treaty."

The restitution of property under the convention of April 30, 1803, applied to captures of which the council of prizes had ordered restitution—to debts contracted prior to the 30th September, 1800, the payment of which had been claimed of the Government of France, and for which the creditors have a right to the protection of the Government of the United States; and it is expressly stated that "it does not comprehend prizes whose condemnation has been or shall be confirmed.

Now, it is quite apparent, from the face of these exceptions, that they are precisely such as the French Government never would have paid, if they had been left for negotiation, till doomsday: they were either such as had been adjudicated and condemned for a positive infraction of the laws of neutrality, or else they were such as were captured, tried, and condemned, under an actual state of war between the two nations.

It is remarkable that neither in the successive reports, from 1826 down to the present time, of committees friendly to these claims, nor in the elaborate essay of Mr. Walsh's Quarterly Review in their favor, are the indemnities provided for in the convention of April, 1803, mentioned as at all connected with the spoliations and seizures made by France prior to the year 1800. Why this omission?

I think I have not mistaken the character of the contest between this country and France prior to the treaty of September 30, 1800. That controversy was, to all intents and purposes, a war. I cannot present a more faithful account of that controversy, and the subsequent events which have given rise to the bill now before the Senate, than by making quotations from the history of the cession of Louisiana to the United States, written by Barbe Marbois, the translation of which was first published in this country in the year 1830. That inflexible republican, like the illustrious Lafayette, equally the friend of his own country and of this Republic, still lives, at the advanced age of between eighty and ninety years, to witness the benefits his labors have bestowed on mankind, in being instrumental in ceding to the United States that extensive tract of country. In behalf of the French Government, he was the sole negotiator with Messrs. Livingston and Monroe, of the Louisiana treaty. He says: (p. 234.)

"It is necessary to go back a few years in order to understand the object of this important part of the negotiation, [the indemnity for spoliations.] The interests of commerce, colonial settlements, and navigation, have effected great changes in the reciprocal relations of the nations of Europe. The independence of the United States has rendered them still more complicated. But such changes are not often remarked by statesmen themselves, till they have committed great faults, by persevering in old errors.

"The Directory, led astray by false notions of the situation of the French colonies, had not remarked that their existence depended upon the preservation of a good understanding with the United States. Instead of re-establishing friendly relations with the American Union, it had, after more than once putting it in jeopardy, finally broken the alliance which had been the precious fruit of the policy of the councils of Louis XVI. Mutual discontent had not yet resulted in direct hostilities; but, even in peace, captures were made by privateers bearing the French flag, which became the subject of great complaints on the part of the United States. It was likewise at this period that the first disasters of the French colonies led to the emigration of many families, who from great opulence had fallen into deep distress. Numbers of them took refuge in the United States. Never was hospitality more nobly exercised than under these circumstances; never were more sincere and effectual consolations offered to misfortunes by a grateful people. This generosity towards refugees, the objects of the persecutions of the Directory, was not regarded by its members as a motive for reconciliation with the American Republic. They had inherited the animosities of the convention, and the West Indian possessions were the victims of them. These colonies, prosperous in time of peace, are exposed to all sorts of calamities as soon as the war breaks out. Their intercourse is interrupted; a parent state, weak at sea, can neither supply them with provisions nor export their produce, and is most frequently incapable of defending them. If they resort to neutrals, this relaxation of the prohibitory system habituates the colony to privileges which make them look on the return of peace with indifference. The Directory, in order to maintain their prohibitory laws, had permitted the local authorities to provide for the preservation of the colonies by arming privateers, and these agents encouraged them indiscriminately to fall on all flags. They carried their disregard of the rules of justice and the laws of nations so far as to condemn, as lawful prizes, ships that had entered the ports with subsistence and provisions intended for the inhabitants of the islands that they governed. Victor Hughes, one of those colonial rulers, openly professed and put in practice the maxim, that, 'in time of want, all kinds of provisions are good prize.' The American Government, before commencing hostilities with France, wished to exhaust all pacific measures. It had sent thence ministers (Messrs. Pinckney, Marshall, and Gerry) to the Directory towards the end of the year 1797. On their arrival at Paris, they were circumvented by all sorts of intrigues. Their correspondence is a monument of the base manner in which the French Government at that time managed their political affairs. 'The most disgraceful cupidity,' they wrote to their constituents, 'was openly manifested at Paris.' The American commissioners were told that "their Government paid money to obtain peace with the Algerines and with the Indians; and that it was doing no more to pay France for peace.'

"This negotiation lasted for six or seven months: it was broken off when it was found impossible to continue it on such erroneous principles. * * *

"The animosity was still increasing in 1799; when Congress, renouncing vain attempts at moderation, resolved that all interconrse with France should be suspended; that the treaties had ceased to be obligatory; and that the capture of French vessels was permitted."

Thus far the historian distinctly and conclusively states two important facts material to the question of indemnities: The one is, that the alliance (treaties of 1778) was broken by France; the other, that a state of actual war, from the action of Congress, existed between France and the United States. M. Marbois continues:

"From the beginning of the Consular Government, a wise policy had put a stop to all reprisals: a convention had been signed on the 30th September, 1800; but, according to a stipulation, without which the reconciliation would have been impossible, indemnities were to be paid for all prizes unlawfully made. [Mark here the character of the indemnities, distinguishing those which were unlawfully from such as the French considered properly made.] Ministers had been subsequently interchanged, and the envoy of the United States (Mr. Livingston) had calculated on prompt satisfaction. The communications which he addressed to his Government authorized this hope; but the expectations were not realized; and, in fact, the finances of France had scarcely began to emerge from the chaos in which the bad government of the Directory had plunged them.

"This part of the convention of 1800, therefore, remained unexecuted, and this contempt of the most ordinary rules of justice carried the general irritation in the United States to its greatest height. The President and his cabinet, compromitted by their moderation, were beginning to make their reproaches heard, and talked of doing themselves the justice that was refused them. The American minister at Paris had received orders to make this discontent known, and his notes were drawn up with a firmness to which Bonaparte was not accustomed. If one of the continental Powers of Europe had dared to employ similar language, the invasion of its territory would have been the consequence." * *

"As the notes of Mr. Livingston, the American minister, remained unanswered, the injured merchants and ship owners lost their patience, and murmured against their Government. The enemies of France in the United States, attentive to the general discontent, hoped to avail themselves of it, in order to force the Union into an alliance with England."

Here it will be observed that the sole object of complaint by the "injured merchants" was the non-execution of the convention of September 30, 1800, leaving it plainly to be inferred that, at this time, they did not think of asking further indemnities than that convention provided.

The writer goes on to detail the events which accompanied the shutting up the port of New Orleans, producing strong excitement in the Western States, and creating an anxiety to secure the free navigation of the Mississippi on the part of the United States, of the one side, and the perilous condition of this French colony in case war should break out and render it an easy prey to the British maritime superiority, on the other side. Events were impending on both sides which rendered it not less desirable that the United States should acquire than that France should dispose of the territory of Louisiana at much less than what has since proved to be its value. Accordingly, at the same time Mr. Jefferson and his cabinet were taking secret measures to purchase a part of Louisiana, and Mr. Monroe was sent to aid in the purchase, Bonaparte was urging his minister to make propositions, and force the sale to the United States of the whole right France possessed in the territory.

The historian continues: (p. 277.) "The conferences began the same day between Mr. Livingston and M. Barbe Marbois, to whom the First Consul confided this negotiation. But the American minister had not the necessary powers. He had resided at Paris about two years. The first object of his mission had been indemnities claimed by his countrymen for prizes made by the French during peace." That is, indemnities under the convention of September 30, 1800.

In the mean time, Mr. Monroe had arrived, bringing full powers to negotiate. As it is my object to confine myself to the subject of indemnities as much as possible, I omit a relation of conferences about prices offered and asked for the territory. The author proceeds: (p. 303.)'

"The convention of the 30th September, 1800, had for its object the securing of reciprocal satisfaction to the citizens of the two States, and the preventing, as far as possible, of any thing that could, for the future, affect their good understanding. We there find the principle, the wisdom and the legality of which only one nation in the world disputes, 'that free ships make free goods, although they are the property of an enemy.'"

"A special promise had been given to pay the debts arising from requisitions, seizures, and captures, made in time of peace; but the execution of the agreement had not followed the treaty. For two years and a half the minister of the United States had been reiterating his reclamation, and demanding in vain the reparation of these losses.

"The cession of Louisiana afforded the means of realizing promises that had been so long illusory. The Americans consented to pay eighty millions of francs, on condition that twenty millions of this sum should be assigned for the payment of what was due from France to the citizens of the United States.

"The two ministers fixed this condition of an indemnity at twenty millions of francs, and they propably expected that they would be required to state the grounds of the estimate, in order that they might be discussed, and a reduction effected. But no opposition was made, and it was instantly agreed that the amount should be deducted from that of the eighty millions. The intention of extinguishing all former claims was sincere on both sides. The round sum of twenty millions was evidently an estimate formed on reasonable conjectures, and could not be an absolute result established by documents. But the American negotiators agreed that, if there was any difference, the amount rather exceeded than fell short of the claims, and the French plenipotentiary gave assurances that in no case should this excess be claimed by France. Thus the respective demands were easily agreed to."

Again: (p. 311.)

"The First Consul had followed, with a lively interest, the progress of this negotiation. It will be recollected that he had mentioned fifty millions as the price which he had put on the cession; and it may well be believed that he did not expect to obtain so large a sum. He learned that eighty millions had been agreed on; but that they were reduced to sixty by the reduction stipulated to be previously made for the settlement of the debt due by France to the Americans. Then, forgetting or feigning to forget the consent that he had given, he said with vivacity to the French minister: 'I would that these twenty millions be paid into the treasury. Who has authorized you to dispose of the money of the State? The rights of the claimants cannot come before our own.' This first excitement was calmed as he was brought to recollect that he had previously consented to treat for a much smaller sum than the treasury would receive, without including the twenty millions indemnity for the prizes. 'It is true,' he said, 'the negotiation does not leave one any thing to desire: sixty millions for an occupation that will not perhaps last but a day. I would that France should enjoy this unexpected capital, and that it may be employed in works beneficial to her marine.'"

If we regard the statement of M. Marbois as containing the facts, we must believe it to be the merest chance in the world that the American merchants ever did receive the indemnity of twenty millions of francs. Napoleon Bonaparte, to the last moment of his life, while he was at war with the rest of Europe, would not have taken that sum out of his treasury to pay these claims. Sixty millions of francs, the sum paid into the French treasury, was all Bonaparte would have asked for Louisiana. The twenty millions paid was so much money of the American people generously and gratuitously bestowed by their Government, for which the underwriters, and others who profited by the boon, are scarcely disposed to thank us; and they would even wink this sum out of sight in their eagerness to grasp more for claims whose foundation, to say the least, is extremely doubtful.

But, Mr. President, if there was the least room to doubt that war had put an end to all right of indemnity from France, it will be easy to show that the United States never first violated any engagement with France in a manner that claimed from us an indemnity.

I see it asserted in a newspaper of this city, copied from a Boston newspaper, expressing the feelings probably of some of those interested in these claims, that, "thirty-four years ago, our own Government sold to the French Government a great amount of claims of our own citizens on France, for indemnity, and received pay for them, and released France from all obligations to pay the claimants, whose demands were acknowledged to be just by both nations."

In the first place, I deny that this Government ever sold to the French Government the claims of our citizens. This Government had done its whole duty to the claimants; it had pressed the claims as far and as long as it was bound to do; and if at length it agreed to press them no further, it was to procure indemnity, not for itself, but for others, and many of the self-same claimants; which indemnity otherwise would have been utterly hopeless, and lost to them for ever.

To the declaration that this Government received payment for these claims, I answer that if no claims of

citizens of the United States against France had existed, it is quite certain the United States would have procured as good a treaty with France as that of the convention of September 30, 1800; and that France would have laid in no claim whatever for an alleged infraction of prior treaties on our part.

It is said these demands were acknowledged to be just by both nations. The Quarterly Review says: "The French Government did not deny the justice of these demands; they even offered to make arrangements to compensate the losses; but they had claims upon the Government of the United States, which they insisted upon taking into consideration, and they refused to enter into any agreement, unless these claims were provided for.

I have no where seen evidence that France at any time conceded these claims to be just. The statements of the Quarterly Review are fallacies. Was not the refusal to pay them--was not the first ratification of the treaty, with the second article, by Bonaparte, which made no provision for payment, tantamount to a denial and a rejection of these claims? To be sure, France would have no objection to making provisions for the payment of just such a sum as the American Government might ask for these claims, provided the United States would agree to pay France an equal or greater sum for alleged infractions of prior treaties; and this is the whole amount of concession which France has ever made to these claimants.

If these claims, as preferred against the United States, possess any merit, it is that the United States have received of France for them an equivalent. That equivalent is alleged to be the discharge by France of the prior obligations contained in the sundry recited treaties.

One gentleman [Mr. WEBSTER] says that, "by a treaty of the United States, the Government of the United States, for a valuable consideration, released France from these claims;" that the United States were relieved from "onerous stipulations of the treaties of alliance and commerce with France of 1778;" that "these claims were relinquished for considerations which were valuable to the people of the United States;" that these claims were "released as a set-off against the infractions of the treaties of alliance and commerce with France."

Another Senator [Mr. PRESTON] says this claim on the American Government "is irresistible," because, by the aid of the release of the claims on France, "the American Government extricated itself from the most embarrassing circumstances;" that "this Government offered three times the amount of this bill to be relieved;" that "we have used the property of these people for purposes of the Government;" that "we have used the money for State purposes."

A third Senator [Mr. SHEPLEY] says he "can prove that the Government might have obtained reparation for these claims of France, if it had chosen to do so;" that payment was not obtained "because France set up counter claims for alleged violations of her treaty of alliance;" that "there cannot be found a more perfect set-off than in the set-off of these two claims."

The Senators may all rest assured that, if these claims had never existed, in negotiating the treaty of September 30, 1800, France never would have thought of preferring a claim for any infraction of her treaties of alliance and commerce. Neither if these claims had not been made, should we ever have heard that the contest subsequent to the act of Congress declaring the treaties at an end was not war to all intents and purposes. Why, Congress, by a solemn act, declared the treaties of alliance and commerce to have been at an end; and yet gentlemen, to make out any plausibility to these claims on the United States, are obliged to declare those treaties to have been in force.

Mr. President, I will proceed to show that there was no infraction of the treaties by the United States; that there were no "onerous stipulations" violated by this Government; and, by consequence, that there was no "valuable consideration" ever received by the United States as a set-off against these claims.

"Pacificus," No. 2, written by Alexander Hamilton, (and surely gentlemen will consider him good authority,) in justification of President Washington's proclamation of neutrality of April, 1793, says: (Federalist, p. 561.)

"The alliance between the United States and France is of the defensive kind. In the caption of the treaty it is denominated a 'treaty eventual and defensive.' In the body, article second, it is called a defensive alliance. The words of that article are as follows: 'The essential and direct end of the present defensive alliance is to maintain effectually the liberty, sovereignty, and independence, absolute and unlimited, of the United States, as well in matters of Government as of commerce.'

"France, then, being on the offensive in the present war, and our alliance with her being defensive only, it follows that the *casus federis*, or condition of our guarantee, cannot take place; and that the United States are free to refuse a performance of that guarantee, if demanded."

General Hamilton contends that even if the war with Great Britain had not been an offensive war on the part of France, the United States, under the peculiar circumstances, would not have been bound by the guarantee. In favor of this position he says: (p. 570.)

"We may learn from Vattel, one of the best writers on the law of nations, that, 'if a State which has promised succors finds itself unable to furnish them, its very inability is its exemption; and if the furnishing of succors would expose it to an evident danger, this is also a lawful dispensation. The case would render the treaty pernicious to the State, and therefore not obligatory. But this applies to an imminent danger threatening the safety of the State. The case of such a danger is tacitly and necessarily reserved in every treaty."

Taking this quotation from Vattel to be sound doctrine, it would be difficult to discover where were the "onerous stipulations" from which the United States obtained a discharge by not consenting to prosecute claims which the American ministers had, in repeated instances, pronounced to be hopeless and of no value.

Even Mr. Madison, in his letters of "Helvidius," who espoused the side of the republican party at that time, in opposition to, and in answer of, the same letters of Hamilton, and took the ground most favorable to France, did not contend that the United States had violated the guarantee in the treaty of alliance by abstaining from the protection of the possession by France of her West India islands, &c. Indeed, it does not appear, either here or elsewhere, that France, at any time, specifically demanded the performance of the guarantee; and, without such demand, it is abundantly evident no obligation was violated. What was complained of by the republicans, who were friendly to the French revolution at the time, was the spirit of hostility to that revolution, and the partiality for the Powers arrayed against France, then contending single-handed, which was evinced by some of the leading members of the existing American administration.

"Veritas," a writer in the National Gazette, of June, 1793, speaking of Washington's proclamation of neutrality, says:

"As the proclamation has not the most distant allusion to the treaties existing between France and the United States, there is room for surmising that those treaties, from which we have long enjoyed important advantages, are now to be considered of no obligation;

and this, I believe, is the light in which many have construed the proclamation."

Washington's proclamation was, indeed, worse than any thing charged at the time by its enemies, if it could be supposed that it placed the United States in the plight of having violated her most solemn treaty engagements; and she must have so violated them, under this proclamation, if the allegations be true that she was, by the treaty of September 30, 1800 "extricated from the most embarrassing circumstances," as is contended by one Senator, [Mr. PRESTON;] or if in that treaty we received that "valuable consideration," in full relief from "onerous stipulations," as is contended by another, [Mr. WEBSTER.]

Dunlap's Daily Advertiser, published at Philadelphia, of April 29, 1793, says:

"The (French) National Assembly, in their letter to Monsieur Genet, if we have a true copy, appear to entertain the idea that we are not so situated as to be expected to participate in the war. The Government of France have not made any requisition of the kind that we know."

A writer in the same paper, June 10, says: "There is not a single article in either of those [treaties] subsisting between the United States and France, wherein it is stipulated that we shall join France in case she shall be involved in war. The clause of guarantee implies not an agreement to enter into war, but only that the United States shall use their reasonable endeavors to maintain the French in their possessions."

Same paper: "Now, sir, this same minister (Genet) told you, on his arrival, that it was not the wish of the nation he represents to involve us in the war."

Mr. Jefferson, in a letter, August 16, 1793, says that citizen Genet assured the President, assured the citizens of Philadelphia, and repeated this assurance, "that, on account of our remote situation and other circumstances, France did not expect that we should become a party to the war, but wished to see us pursue our prosperity and happiness in peace."

The French minister who negotiated the Louisiana treaty confesses that France first broke the alliance between the two countries; and even the Quarterly Review says France armed against us, and seized immense amounts of our property, and was the first to violate existing treaties; and yet it was our violation of existing treaties that constitutes our obligation to her, for the payment of which these claims are urged to be an offset!

The convention of September 30, 1800, removed the evils of war which then existed; and this was the first object of that convention on the part of the United States. The American negotiators wished indemnity for all spoliations that took place prior to the several acts of Congress which authorized the capture and condemnation of French ships and property on the high seas, and which declared all existing treaties between the two countries to be at an end, and they made a distinction between the claims originating before and those arising after the act of Congress nullifying the treaties with France; but the French envoys would consent to no such distinction.

The first project of a treaty exhibited by the American envoys, proposed that "full and complete compensation" should be made for captures on both sides. Now, if the American Government is bound to make compensation to Americans because France was bound, and she stands in the place of France, on account of the alleged offset, is not the American Government also bound likewise to make restitution to Frenchmen for its own captures? The Senate report of May 24, 1828, admits that eighty-four French ships were captured by the Americans, of which sixty-eight (valued at $600,000) were condemned, one-half to the captors, the other to the United States. Was this property ever restored to France? If not, will it not be the duty of France to claim it, and our duty to pay it, after this Government shall have stood in her place to make restitution for the property she has taken from American citizens under like circumstances?

It is said our Government appropriated these claims to its own use, by makng them the "valuable consideration" for which it obtained a release from the obligations incurred by the early treaties with France; but it is evident, from the fact that the treaty was fully ratified on the part of France without a discharge of the claims, that the French Government placed no value whatever on the nominal obligations of the American Government contained in those ancient treaties.

Considering that the United States violated no obligation to France, and that if there was any violation it was on the part of France, who first broke the alliance, where will the principle lead, if the American Government now makes restitution for the remaining claims on France, that were not provided for in the convention of 1800, and secured to be paid in the convention of 1803? If, by consenting no further to urge that portion of the claims which the French Government would never have allowed, this Government has become responsible itself for the claims—if, to purchase peace and secure other claims, to the amount of twenty millions of francs, the United States, as for this "valuable consideration," became responsible—so is it clearly and equally responsible, hereafter, to make restitution for the thousand ships and millions of property seized by Great Britain under her orders in council, prior to the declaration of war by Congress, in 1812. Up to the last moment of the negotiation with Great Britian, the American commissioners continued to insist on a restitution for those seizures. To obtain peace, however, I find they did give this up. Niles's Register of February 18, 1815, presents, as taken from an English newspaper, the following, as one of the terms of peace:

"The Americans have waived any stipulation on the subject of maritime rights, as well as respecting compensation for captures under the orders in council, or on any other account."

The British Government, however, did agree to make compensation for slaves and other property seized on the land. It also recognised the treaty of peace of 1783, so far as related to possessions and boundary, with a single exception; and with equal truth might it be urged that the treaty of peace of 1783 existed and was in force while war existed with Great Britain, as now it is urged that the treaties of alliance and commerce between France and the United States existed and were in force during the negotiation of the French convention of September 30, 1800.

"Compensation for captures, under the orders in council, or on any other account," was waived by the American commissioners at the treaty of Ghent. Here is even a stronger case than is presented in the treaty of September 30, 1800; for the American negotiators agreed at once to yield the millions of "valid claims" to indemnity, "arising out of illegal captures, detentions, forcible seizures, illegal condemnations, and confiscations, made or committed" by Great Britain in time of peace, for the "valuable consideration" of peace, which saved millions of blood and treasure to the country. Here is a set-off to American claims quite as complete, and much more direct, than the set-off in the French convention; and why not at once make provision for the payment of all claims for British spoliations, as well as of all French claims, direct from our own treasury? Of these British, as well as of the French claims, almost every Senator may say that "a portion of my constituents—some of them widows, and children, and grandchildren—are interested." Are these claims not, indeed, "irresistible?"

But an honorable Senator [Mr. SHEPLEY] says that the

United States once offered to pay five millions of francs to be released from the obligations of the ancient treaties, and that France once proposed to receive ten millions of francs for a part, and thirteen millions for the whole, violation of plighted faith. It is easy to conceive how these offers might be made on either hand, although neither party should consider its claims as of real value. It amounts to nothing more nor less than this: The United States were willing to allow five millions of francs (less than a million of dollars) if France would consent to a restitution of all captures, seizures, and spoliations, on both hands; and, by such an arrangement, no doubt, we should have been great gainers. France was willing to negotiate in a similar manner, if the sum of nominal damage for alleged infraction of the ancient treaties might be raised so much as to bring her not greatly in our debt. As the parties could not be brought to agree, it was quite natural that the basis of actual war should be taken as the ultimate ground of negotiation, and *bona fide* captures (excepting public armed ships) were suffered to remain in the hands of the captors. For such captures, the bill provides restitution from our own treasury. The principle that would allow them would allow restitution from our treasury for any and every capture made in any maritime war that ever was waged.

The Senator from Maine says: "France offered to submit all claims," including her extraordinary claim for damages under the ancient treaties, "to a commission," and to abide by the award of that commission; but that the United States refused. This was perfectly natural, if the commissioners for the United States believed, as was the fact, that the French claim for damages was a mere finesse. They did, as all prudent men would do, when they declined to leave that claim to be estimated and decided on by persons who might be interested against them, and who might place them under real obligations to pay for what was really no consideration at all.

It is said that "claims precisely circumstanced like these, have been pressed upon France until she has consented to pay us twenty-five millions of francs." The circumstances of the two cases, as was shown by the Senator from Missouri, [Mr. BENTON,] are so different, that in no two features are they alike. The claims specified under the four different heads of the treaty negotiated by Mr. Rives, in 1831, bear a very near analogy to those which were provided for in the Louisiana treaty, but are entirely unlike those which were declared to be desperate by the negotiators of the treaty of September 30, 1800.

There is nothing in the fact that should favor these claims, if it be true, as is alleged, that the board of commissioners under the last treaty with France has determined that this class of claims cannot come in under that treaty. The objects of restitution under that treaty are particularly specified under four different heads; and neither of those heads embraces claims that bear even a distant analogy to the claims under consideration.

The zeal with which our Government has at all times advocated the claims of its citizens, is, in this instance, urged as proof that the Government, admitting their justice, is responsible for their discharge. The Quarterly Review says: "As long as they were to be paid by France, no doubt was entertained of their validity." And again: "In performance of this duty (to procure redress for injuries done to our citizens) the Government of the United States invited its citizens to confide their claims to its management, and undertook to do every thing in its power to obtain satisfaction." So the Government of the United States, to the last end of the chapter, pressed on the Government of Great Britain the claims for remuneration under her illegal and unjust seizures and condemnations by the orders in council, until finding the prospect of remuneration absolutely hopeless, and finding peace of more value than further destruction of lives and property, this Government, in both cases, consented to waive all further claims for illegal seizures and condemnations. There probably was never an instance of treaty with any foreign nation, where this Government did not press the claims for individual injury to the last moment.

The admission of our negotiators, that there was ground for pressing these claims on France, is taken for granted as an admission that the claims are now due by this Government. Such an inference is gratuitous and fallacious. The history of diplomacy, in all ages, furnishes evidence that claims and pretensions are often set up to counteract other claims and pretensions, both of which in the end are yielded; and that these, although sometimes founded in justice, are yielded as an offset to those having really no foundation. The claim by the United States for remuneration of seizures and spoliations under the treaties of alliance and commerce, after the United States by act of Congress had declared those treaties at an end, was likely to be met by the best pretext for claim the French Government could find under the same treaties. As neither of the claims was perhaps tenable, under the practice of nations, to make no restitution where a state of war—call it, if you please, a "*quasi* war"—had existed; so both nations at length were willing each to withdraw its respective pretensions under treaties which had been broken and declared to be void, and to offset each against the other, all the captures and condemnations that had occurred during the existing differences. And both nations did well for their citizens, to make peace even on these terms; and neither laid itself liable, by consenting to waive the further pressing of individual claims, for the payment of such claims. Negotiation and war could not reclaim them; and the nation was not bound further to compromit the welfare of its citizens by continuing a belligerent attitude on account of these claims.

Mr. President, my propositions are:

1. That a state of war between France and the United States effectually put an end to all obligation by France to make restitution for captures and spoliations beyond what they particularly specified in the treaty of September 30, 1800.

2. That the United States, after pressing France for a restitution of those claims, so long as they could do it without a sacrifice of other paramount public and private interests, assumed no responsibility for their payment by consenting to press those peculiar claims no further.

3. That, if the fact of the existence of war and the abrogation of prior treaties shall be denied, still the United States, having first violated no previous treaty, were under no obligation to France, and owed her nothing for such infraction.

4. That, as the United States owed nothing to France, so the claimants are entitled to no compensation from the United States for any alleged claims on France.

Mr. President, I listened with close attention to the argument of the Senator from Maine [Mr. SHEPLEY] in favor of these claims. From the logical mind of that gentleman, I had anticipated much stronger reasons for passing the bill than he did present: from his known aptitude for thorough investigation, I had anticipated an array of facts giving color, at least, to the strong and positive statements which he had before promised to make so clear and apparent. In his argument I have been disappointed.

Because the Government of the United States—(when we say Government, we mean not all branches of Government, but only the Executive or its agents,) because the agents of this Government expressed a willingness

and a wish to negotiate on the basis of the ancient treaties, and as if no war had existed, the Senator infers that no war did exist. He quotes the French ministers who negotiated the treaty of 1800, as saying that "the treaties have not been broken; that there has only been a misunderstanding;" that "they never thought of making war, nor of creating commotions" in the United States; and this he considers positive and conclusive proof that war had not existed, and that the treaties had not been broken. But did the Senator recollect that, in starting with his argument, he first labored to show that the French nation, at the very commencement, had violated the treaties by ordering the seizure and arrest of neutral ships, and the ships of the United States with the rest?

"The treaties have not been broken." Will the Senator take this ground, to make the claims binding on the United States? Has it not been shown that the treaties were broken? The gentleman himself had first to insist that France broke the treaty when she directed the seizure of the neutral property. Barbe Marbois says France first broke the alliance: the very book of documents, compiled to prove these claims, opens with complaints that France had been the first to violate her treaty engagements.

The gentleman says the state of things that existed was not war; that neither nation set up that there was war; that France has never plead war as a release from these claims; that the annulling of treaties amounted only to cause of war. If both the American and French authorities at any time chose to negotiate on the basis of *status quo ante bellum*, or even to infer that a general capture of property and hard fighting on both sides was not war, the same authorities will rise in contradiction of this position. Messrs. Ellsworth, Davie, and Murray, in their journal of September 12, 1800, expressly say that the president of the French commission declared (and the other two commissioners united with him in the declaration,) that he would sooner resign than sign a treaty with indemnities; that any impartial tribunal would declare the present state of things to be war; and that, being a state of war, no indemnities could be claimed.

The same American commissioners themselves, in so many words, declare that there was war; they say the treaties have undergone the nullifying operation that war imposes; that "doubtless the congressional act authorizing the reduction of French cruisers by force, was an authorization of war, limited, indeed, in its extent, but not in its nature;" and that "clearly, also, their subsequent act, declaring that the treaties had ceased to be obligatory, however proper it might be for the removal of doubts, was but declaratory of the state of things; and certainly," they say—mark the expression!—"it was only from an exercise of the constitutional prerogative of declaring war, that either of them derived validity."

Oliver Wolcott, Secretary of the Treasury, in his report to Congress, January 23, 1800, after the Consular Government had directed a relaxation of the war operations, inferred a state of war to exist, as will be seen by the following extracts:

"That all exports to France or her dependencies were prohibited after the first day of July, 1798, by law of Congress.

"Vessels have been carried to the vicinity of French ports, where, as it is believed, they have been captured by French privateers, in consequence of preconcerted arrangements; other vessels have entered French ports on pretence of distress. Although the vessels have, in many instances, been liberated, yet the cargoes have been detained by order of Government."

The Secretary continues: "The plea of forcible exchange cannot be admitted, without permitting the French Government virtually to repeal our laws by means of their own internal regulations; and if the United States refuse to submit to an insidious policy, and some of our citizens suffer losses, it is against the French and not against the American Government that their complaints ought to be directed."

I repeat, sir, if these claims had not been interposed, a state of war would never have been doubted; and it will be seen that the whole French commission repudiated the idea that the "state of things" was any thing else than war.

It was entirely unnecessary that the Senator so long dwelt on the proofs that the property for which restitution is claimed was illegally seized; the illegal seizure is not doubted. And while he would urge this as a reason why the American Government should stand in the place of France to make restitution, we urge it as one of the proofs that the United States are exonerated from this restitution; for if by these seizures France first broke the treaties, nothing was due from the United States, even if it should be admitted that we afterwards violated those treaties, as it cannot be contended that one party was bound to a rigid adherence of the treaties, after the other party had repeatedly violated them, and persisted in her determination to continue their violation.

The Senator says the United States, in repeated instances, acknowledged the goodness of these claims; that the negotiators, on some occasions, urged them on France as good and valid; and the Secretary of State declared that the captures were made "in direct violation of the treaties." Instructions also were given, making it an "indispensable condition" that all captures shall be indemnified. The fact that when the whole treaty-making power (not the negotiators alone, but the President and Senate) was brought to act, indemnification was not "an indispensable condition," is better proof that the Government did not, than did, consider this a debt good and of valuable consideration on their part.

But the Senator says "France was willing to indemnify, provided we would acknowledge the treaties to be still in existence;" that she said "the parties on both sides ought to be compensated." Has France, since she threw up indemnities on both sides, ever made restitution to her citizens for the property which was captured and condemned by the Americans? Not a dollar! France, it is true, was willing to allow an indemnity, provided we would allow her a greater indemnity, or give her a chance to obtain one; she was willing to revive ancient treaties, that had been declared null and void on both sides, if she could make a better bargain in the one case than she could in the other. But France, in the end, great as was the amount of her claim, was willing to make it a draw game.

The gist of the whole matter is, "the consideration," "the valuable consideration," received by the United States, for which we are bound to pay these claims.

The astute advocate of the claims in the American Quarterly Review had said the claims of France on the United States "were indefinite, and, from their nature, incapable of exact calculation; but they were not on that account less real, or less entitled to attention."

I had hoped the Senator from Maine would be more definite. The violation of the guarantee in the treaty of alliance is set up as giving France her principal claim on us. I have shown you, as I trust, that France never asked of the United States the performance of this guarantee, which would at once have thrown us into collision with England. It was for the interest of France itself that the United States should maintain a neutral position after she had declared war against England; and if it had not been her interest, the guarantee was binding on us only while France was engaged in a defensive, not an

offensive, war. In any event, she could not complain until she had at least made a formal request. Even had France requested, the reasoning of General Hamilton, and his quotation from Vattel, most conclusively demonstrate that if the United States had promised succors to France by treaty, if the furnishing those succors would expose it to an evident danger, this danger is a lawful dispensation from the obligation.

The lengthy correspondence that took place between different envoys and agents, from 1793 to 1800, as well under the ever-changing administrations of the French Directory as under the consular rule of Bonaparte, is full of evidence that neither the guarantee in the treaty of alliance, nor the obligations of the treaties of commerce, were at any time insisted on by France. Then, Messrs. Pinckney, Marshall, and Gerry, in a letter to the Secretary of State, assign as the principal ground of complaint, that the French Directory "wanted a loan" from the United States, which they had no authority to grant; and added, "the Directory felt itself wounded by the different speeches of Mr. Washington and Mr. Adams."

General Washington, accepting the command-in-chief of the armies of the United States, in 1798, at the time of the rupture or war with France, distinctly alleges the unfounded pretensions of the French Directory as his principal reason for once again standing in the service of the country. He says he is induced to enter the service by "their disregard of solemn treaties and the laws of nations;" and that "their demands on us amount to tribute."

The Senator has undertaken to show what were the claims of France on the United States, constituting the obligation of the United States to the present claimants. If I understood him right, they consisted entirely in the value of our obligations to France, under the several treaties of alliance and commerce of 1778. He says the mutual guarantee of one of the treaties, that one party should protect the other in trade with its own enemy, was a valuable property to France, inasmuch as it would have secured her a trade of incalculable amount.

To confront his exposition of these obligations, and even the allegation that the United States at any time violated the treaties, the volumes of published diplomatic papers furnish abundant testimony. You can scarcely open the books without falling upon them. One or two quotations to this point, at different periods, may suffice.

General Washington, in his message to Congress, December 5, 1793, speaking of the difficulties with France, says:

"In the mean time, I have respected and pursued the stipulations of our treaties, according to what I judged their true sense; and have withheld no act of friendship which their [the French] affairs have called for from us, and which justice to others left us free to perform."

And, as covering nearly the whole ground of controversy, the following extract of a letter from the three American envoys, Messrs. Pinckney, Marshall, and Gerry, to the French Minister of Foreign Affairs, dated February 7, 1798, will serve to prove that, from the beginning to nearly the end of the chapter, the American Government had no idea it was violating any obligation to France by the neutral position it had assumed:

"America (say they) found herself at peace with all the belligerent Powers; she was connected with some of them by treaties of amity and commerce, and with France by a treaty of alliance also. These several treaties were considered with the most serious attention, and with a sincere wish to determine, by fair construction, the obligations which they really imposed. The result of this inquiry was a full conviction that her engagements by no means bound her to take part in the war, but left her so far the mistress of her own conduct, as to be at perfect liberty to pursue a real system of neutrality."

The Senator from Maine has not shown that this construction of the treaties by the eminent men then constituting the Government of the United States was a false construction. He must show this to prove that the United States were under any obligation to France for failing to perform any treaty stipulation. Will Senators at this day contend that Washington's proclamation of neutrality was indefensible!

The offer of the envoys of the United States to pay a specific sum to release them from the obligations of these treaties, I consider in no other light than an offer to subtract that amount from the claims on France, if she would consent to allow those claims. It was a diplomatic expedient to evade that state of things which really existed, and which, if admitted to exist, precluded all chance of restitution. It was a diplomatic expedient, calculated to secure something for the claims on France; whereas, without it, nothing could be obtained. Hence we find the American envoys willing to give eight millions of francs, while they absolutely refused to leave any thing to the uncertain decision of a board of commissioners. If they had considered this French pretension as of any real value, they would have been equally willing, as was France, to have submitted the whole questions arising under the treaties to a board of commissioners.

Mr. President, of late years invention seems to be put to the rack in devising ways and means to abstract money from the public treasury: in proportion to the facilities of accumulating money under an onerous system of duties and taxation, have the expedients for expending and making way with the funds of the Government multiplied. Individual claimants are continually pressing on Congress for those antiquated claims, of the existence of which the claimants themselves were not aware until they obtained the information from some speculator, whose whole business is to hunt them up from musty records, and magnanimously offer, for a moiety of what shall be recovered, to do the business of obtaining them. Many a man, in some distant section of the country, has unexpectedly received the offer of five, of ten, or twenty per cent. for his chance of recovering a claim in behalf of his father or grandfather, for something done or suffered in the days of the Revolution, or in the time of the *quasi* war with France, or at some other period of national distress. Claims of this kind, although thousands have been paid off, are more numerous now than they have been at any period within the last thirty years, and they will continue to multiply. Success in procuring large sums on claims which have little or no foundation, emboldens others to advance theirs: fraud and forgery are sometimes brought in to aid in abstracting the money of the treasury. It is made the interest of the several States to procure each as much as possible for its share of these allowances; and even members of Congress, acting honestly for the local interests of their constituents, become themselves instrumental in contributing to the common abuses.

If the claims intended to be provided for in this bill shall be allowed, the main part of them will go to swell the enormous wealth of a class of men who owe their good fortune not to their patriotism, but to that cupidity which has often shown itself willing to sacrifice the country's best good on the altar of avarice. Who but the underwriters and ensurers, and those who have ventured on the ocean in pursuit of an unauthorized trade—who but those who have shown themselves willing to sacrifice "free trade and sailors' rights," and to abandon their country in a great contest for equal rights and justice on the ocean—who but these, and such as these, will be benefited by the passage of this bill? Never-

theless, I would pay every dollar that is justly due to these, and all other men. I cannot believe the Government owes one cent of these claims; and therefore I oppose the passage of the bill.

When Mr. HILL had concluded his speech—

Mr. SHEPLEY corrected a misconstruction of his remarks, made by the Senator from New Hampshire.

The Senate then adjourned.

WEDNESDAY, DECEMBER 24.

PORT OF ENTRY ON THE WABASH.

The resolution submitted by Mr. TIPTON, directing an inquiry into the expediency of establishing a port of entry at Lafayette, on the Wabash river, was taken up for consideration.

Mr. TIPTON said he had reason to fear that he should weary the patience of the Senate with motions to improve the navigation of the Wabash, and in remarks in supporting them; but, sir, said he, the claims of that river to public consideration, the situation of the country, and the condition of the people that inhabit the Wabash and its tributaries, have been so much misunderstood elsewhere, that I owe it to the Senate, to the country, and to myself, to invite the attention of Congress to that subject once more; this I propose to do at this time, and promise to be as brief as I can to do the subject that justice its importance to the West demands.

This motion contemplates establishing a port of entry at Lafayette, on the Wabash. This town is situate about four hundred miles by the river from the mouth of the Wabash, and two hundred and fifteen by our canal from the Maumee bay on Lake Erie, surrounded by a country unsurpassed in fertility of soil, becoming wealthy, and of immense resources. In proposing to establish a port of entry at the place mentioned, I have two objects in view: first, to invite and extend commerce to the interior of our country, and to remove the last objection that can be raised to an appropriation of money by Congress to improve the navigation of the river.

This proposition has nothing new or novel in it: the principle has been frequently acted on by Congress: ports of entry have been established high up on many of our rivers, and I am unable to perceive any good objection to this being done. It invites our merchants in the interior to become the importers of their own goods direct from foreign markets, to such parts of our country as consume them, thereby saving to the merchants in the interior, the drayage, storage, commission, and other charges that they are subjected to when their packages have to be opened, goods stored, and duty paid, in the ports of New York or New Orleans.

It is true that steamboats cannot pass the rapids at White river and ascend the Wabash to Lafayette and our canal, when the river is low. This was also the case with the Ohio before the construction of the Louisville and Portland canal. Steamboats could not pass the falls of the Ohio, to ascend to Cincinnati and Pittsburg, unless the Ohio was high, and ports of entry were established at both places. The United States contributed to aid the construction of the Louisville and Portland canal, and we expect them to improve the navigation of the Wabash.

The Wabash is equally as susceptible of navigation, above the rapids, near White river, as the Ohio from Marietta to Pittsburg, and better than Cumberland, and a port of entry has been established at Nashville: of this I do not complain; it is, in my judgment, right and proper. I ask no more for the Wabash than has been done for other rivers of similar claims, and I hope this will not be denied.

By the Blue Book, I find that ports of entry are established in several of the old States, at places where it was once thought necessary, that turn out to be rather unimportant. Some of these ports yield no revenue, but officers of the customs are appointed; and where no business is to be performed, no salary is paid. At other places, 150 or $180 are paid, where but little service is required. A port of entry at Lafayette cannot be less important than some of those are.

It is due to the intelligent and enterprising population invited by the wise policy of this Government to seek homes on the western waters, that a port of entry should be established among them, to encourage commerce. In 1827, a grant of land was made to aid in constructing a canal to connect, at navigable points, the waters of the Wabash with those of Lake Erie. This grant consists of the one-half of five miles on each side of the canal line, to be divided by alternate tiers of sections.

The State of Indiana rated her lands at first, second, and third rate. Those lands are sold at $1 50, $2 50, or $3 50 per acre. Agreeably to this rate, by thus rating the canal lands, we have raised the United States lands in that vicinity to a corresponding value; and a quantity of United States lands have been sold at these prices, that would have remained unsold for twenty years to come, if no public improvement had been begun in that country.

The United States received $693,522 40 for lands sold in Indiana last year from the extraordinary sales. I infer that these sales are owing to the improvements going on there, and that the grant of land to aid in the construction of the Wabash and Erie canal has been beneficial to the United States, and I challenge the most violent opponent of internal improvement to pass our rivers, lakes, and canals, from New York to New Orleans, and say, if he will, that these public works do not promote the best interest of our country.

After leaving the steamboat at Albany, the traveller will pass rapidly on the railroad to Schenectady, thence westward, he sees millions of tons of freight floating on the canal and lake to the far West. Continuing his journey southwest, along the Maumee river, that part of the Wabash and Erie canal line not yet under contract, here the country is progressing slowly in population and cultivation; but when the traveller arrives at Fort Wayne, where the work is progressing on our canal, every body is engaged; all is bustle and business, and from Fort Wayne, crossing the summit between the Mississippi and the St. Lawrence, seventy-five miles of the canal is completed, or in a good state of forwardness; here are to be seen farms and villages springing up, as it were, by magic; nothing is wanting but a continuance of the fostering care of this Government to make this a most desirable part of the country in a short time.

Emigrants are daily arriving among us from New York, Pennsylvania, and Ohio—men of wealth and business, who have been engaged as engineers or contractors on the public works in the old States that have been finished, go west with educated and intelligent families, seeking a permanent home. These present a very different appearance from that class of individuals that roam the western wilds after bear and deer.

Should a traveller stop for the night in one of our villages that are springing up at every ten or fifteen miles along the canal, where the work has been begun, and does not rise by twilight, he will be aroused by the sound of the hammer, the woodman's axe, or the mechanic's plane. This is the fruit of the wise policy heretofore pursued by this Government toward the new States in the West; its blessings cannot be too widely diffused.

I happened in conversation with one of the postmasters last fall: he remarked that he was astonished to see the number of newspapers and pamphlets that passed his office for Huntington, and other villages on the canal.

The people in these neighborhoods take more papers, said he, than many other places of twice their age and four times their population, and must be a reading people. This is, no doubt, true; and where we find a reading people, we always find a moral and industrious people, who patronise schools and other institutions that enlighten the mind and elevate the character of man.

The population that are flocking to that country are both enterprising and industrious. By their exertion they are opening farms, building towns, and constructing the canal. The face of the country is undergoing a wonderful change: what was but a few days ago a desert for wild beasts to roam through, has become the peaceful abode of civilized man. It is in that country, and for the benefit of these people, that I have endeavored to describe that I wish to establish a port of entry, and to improve the navigation of their river.

Strong inducements have been held out to the people to purchase and settle western lands. Men who have emigrated to the West, and divested themselves of the commercial facilities to which they were accustomed in the Eastern States, look to the General Government to extend these facilities to their new homes; and the Government owes it to the people to diffuse its blessings to all parts of our country, where it can be done with convenience, as it can in this case.

I am not one of those that believe that a law of Congress establishing a port of entry, confers power to appropriate money to improve rivers: all that has been said and written upon this subject, has not changed my mind. I entertain no doubt but the power exists to appropriate money to improve rivers in any part of the United States, or their Territories, where the business of the people require such improvement.

The eighth section of the first article of the constitution of the United States, granting powers, reads thus:

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States."

The same section concludes as follows:

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof."

Here is a grant of power by the constitution itself, authorizing the legislative department of the Government to make all laws necessary and proper for the public interest. The ordinance of Congress of 13th July, 1787, is older than the constitution, and binding on the parties to that instrument, (which has, unfortunately, been too much overlooked in this whole transaction.) The Wabash is a reserved public highway; free to all the people of the United States; and I propose to establish a port of entry on that river, and to improve this public highway. I can find no limitation on the power of Congress or the President, as regards appropriations to improve the navigation of rivers, and to establish ports of entry, beside their own discretion. Does not the constitution and constant practice of the Government authorize the improving of this river? And the interest of a large portion of our constituents seems to demand it.

There is an additional reason for establishing this port of entry: it will remove a difficulty from a certain quarter that I have found extremely inconvenient. It can cost nothing—it will violate no principle; and where it is within the power of Congress to do so much good, without violating the former practice of the Government, or creating new expenses, I think it will hardly be denied us.

It may be asked why this motion was not made last year, before the Wabash bill passed? It was introduced by an honorable member of the other branch of Congress, at the last session; but, owing to the press of business in that House, did not get through. I am desirous to get an expression of the Senate on this proposition, at as early a day as may be convenient, that it may have an opportunity of becoming a law before we adjourn.

This motion looks to establishing a port of entry, and improving the river. Near half a million of people reside on the Wabash and its tributaries, all deeply interested in the steps taken here to extend to them commercial facilities. Every gentleman conversant with the New Orleans market for the upper country produce, will testify that the rise of the Wabash, to let our boats pass the rapids of White river, has an influence upon the sales at New Orleans. Should not the river rise to let boats out early in the spring, our produce, consisting of flour, corn, pork, and beef, is locked up at home, and prices are high in the lower country. When the river rises, and boats get off, they are thrown all at the same time into the market below. Our produce is mostly carried to market by our farmers, who, anxious to return to their farms, and dreading the disease of a Southern climate in the sickly season, sell at great sacrifice. Many of our people fall victims to the disease, and find graves in that country. Hundreds of lives and thousands of dollars are sacrificed in that unhealthy climate every year. A portion of these can be preserved by the improvement proposed.

The delegation are not urging this measure upon Congress of their own accord. Our Legislature has frequently memorialized Congress upon these subjects, and I have no doubt will do so again at this session. We do no more than reiterate here the wishes of those we have the honor to represent, with a hope that a deaf ear may not be turned to our request.

In submitting a resolution to the Senate a few days ago, I alluded, in the most temperate language, to a publication made in the Globe last summer, as I then believed, to array the Jackson party in Indiana against me, for advocating the improvement, by the United States, of the navigation of the Wabash. For this I am again assailed, and insinuations made calculated to injure me, and to prejudice this measure. It is true that I live on the Wabash, and, like other men of industry who settled there at an early day, own some land, but far from a great estate, as charged by the Globe. And, were it true that I have a large estate, is that good ground for the Globe to oppose improving the river, and thereby injure the people of more than one State?

If any person have charges to prefer against me, either in my public or private capacity, let them be brought forward; I stand ready to meet them at all times and places. I have no favors to ask; but, if it is expected to deter me from my duty by such attacks, they are mistaken. I shall vote according to my own sense of right, without being driven from my course by threats or insinuations.

The resolution was then adopted.

COLONEL LEITENSDORFER.

The bill for the relief of Colonel John Eugene Leitensdorfer coming up as in Committee of the Whole, and the bill having been read—

Mr. BENTON requested the Secretary of the Senate to read the report, which was done, as follows:

"The Committee on Military Affairs, to which has been referred the petition of Colonel John Eugene Leitensdorfer, respectfully report:

"That the services and sufferings of the petitioner in the American cause, as set forth in his petition, are well and sufficiently proved by the evidences adduced, and seem to have been amply proven to the Congress of 1811, by which body an act was passed for his relief.

"The chief question which the committee have found themselves called upon to decide is as to the sufficiency of the relief then granted; and they are of opinion that it was not sufficient.

"The three hundred and twenty acres of land then granted to him, to be located west of the Mississippi, where no land office was opened for seven years afterwards, could be but an inadequate compensation for the risk and trouble of a journey from Grand Cairo to Upper Egypt, in search of the exiled Bashaw, Hamet Caramalli, of Tripoli; an enterprise in which the petitioner had a double danger to encounter—of death from the Turks, as a deserter to the Mamelukes under Elfi Bey, then at war with the Sublime Porte, and death from the Mamelukes, as a spy from the Turks. It also bears no proportion to the value set by the American Government on the co-operation, by land, of Hamet, the exiled Bashaw, with the squadron of the United States, in their maritime attack upon the reigning Bashaw in Tripoli. From General Eaton's journal it appears that he advanced the petitioner but fifty dollars when he set out upon his perilous expedition, being most scantily supplied himself with funds by the American Government, and entirely pennyless before he had accomplished his enterprise. It is shown that the House of Representatives, in 1811, had proposed to raise the petitioner's compensation of land to six hundred and forty acres; and the committee now recommend this to be done, by granting him an additional quantity of three hundred and twenty acres, as requested in his petition.

"For his military services the act of 1811 allowed the petitioner the pay, without emoluments, of a captain of infantry, while the act itself, which made the allowance, recognised his true rank of adjutant and inspector general; and General Eaton attests that his rank was that of colonel, and his important services, both in the march from Alexandria to Derne, and in the military operations at that place; a rank not to be considered extraordinary in an officer who had served in the finest armies of Austria; had been a colonel of chasseurs at the battle of Marengo; and was chief of the staff and director of artillery to the Turkish army in Egypt when he joined the enterprise of General Eaton, and placed all his hopes of rank and fortune upon the restoration of the true sovereign, Hamet Caramalli, to the throne of Tripoli. The committee therefore recommend that he be paid as colonel of cavalry during the seven months that he served, deducting therefrom the amount paid as captain of infantry.

"The third item of compensation is the extra pay at the time of discharge. This was not given at all in the act of 1811, though always given in the American service, and fixed at three months' pay, without emoluments, and intended to defray travelling expenses from the place of discharge to the place of residence. It is believed that no case could occur in which the commutation for travelling expenses could be more properly allowed than that of the petitioner. Induced to quit the Turkish service to enter the American; discharged on a foreign shore in the midst of victory; compelled to abandon every thing—horses, tents, and baggage—and to go on board a ship at midnight, and by stealth, to escape massacre at the hands of those whom he was compelled to desert; a wanderer for four years before he could get to the United States; at one time sold into slavery; at another an enlisted soldier; and arriving at last, destitute and a foreigner, in the United States, which he had fixed upon as his last asylum and home. Under such circumstances, the ordinary allowance for travelling expenses would seem to be an obligation of duty upon the Government of the United States.

"The application for a pension, preferred by the petitioner, if the pension system of the United States stood as it did at the close of the late war, would not be favored by this committee; but, since so many are receiving pensions who have done so little, no reason can be perceived upon which it should be denied to one who has done and suffered so much.

"To complete the view of Colonel Leitensdorfer's case, the committee have to remark that he stands before Congress in a very different point of view now, from what he did in 1811. He was then an alien, and might be taken for an adventurer; he is now a citizen of the United States, married to a native American, father of a family, for twenty-two years a cultivator of the ground near St. Louis, and, during all that time, an honorable and industrious man.

"The committee accordingly report a bill."

The reading being finished, Mr. BENTON proceeded to recall to the recollection of the Senate some historical facts which illustrated the case of the petitioner, and showed his ample claim to the relief which was now proposed to be granted to him.

The enterprise of General Eaton, he said, was authorized by the Government. His plan of co-operation with the naval attack on Tripoli, by a military movement from the interior, received the sanction of Mr. Jefferson's administration, and he was directed to execute it. The first step in this plan was to find out, and bring into its views, the exiled Bashaw, Hamet Caramalli, then a fugitive from his country, and wandering, it was not known where, in some part of Egypt. For this purpose General Eaton was carried to Alexandria in a national ship, and proceeding thence to Grand Cairo, there learnt that Hamet was in Upper Egypt, in the camp of Elfi Bey, then at war with the Turks, and the Turkish troops occupying the intermediate country. It was evident that, without the instrumentality of a faithful agent, who could pass both among the Turks and Mamelukes, his enterprise was at an end. Colonel Leitensdorfer, then in Grand Cairo, and in the Turkish service, became that agent, succeeded in the perilous undertaking, and returned with Hamet to Alexandria. There an expedition, savoring more of romance than of history, was set on foot. About one hundred Christians, collected from the stragglers and adventurers of all nations; four or five hundred Moors and Arabs, a hundred camels to carry baggage and provisions; undertake to cross the desert of Lybia, six hundred miles, to dethrone the Bashaw of Tripoli, restore the rightful heir, and release four hundred Americans from the chains and dungeons of Tripolitan slavery. They were fifty-six days in the desert, suffering every thing incident to such a journey, and such a mixture of nations and religions. Twenty-five days they were without meat; fifteen without bread; often without water, and sometimes drinking it from cisterns from which the bodies of murdered men had first to be hauled out. Almost every day the Arabs mutinied; sometimes for more pay, sometimes for rations; always with threats to the Christians, who were constantly standing to their arms against their associates. At the end of near two months they arrive at Derne, capture it, augment their forces to twelve or fifteen hundred men, defeat the Bashaw's troops in the field, and have every prospect of marching as conquerors upon Tripoli. At this juncture (13th of June, 1805,) the United States frigate Constellation anchors before Derne, and every heart beats high with the prospect of the promised naval co-operation, and the immediate march upon Tripoli. On the contrary, she came from Tripoli, brought news of the treaty of peace and amity, just signed by Mr. Lear with the reigning Bashaw, and sent for General Eaton to come on board immediately, with his Christian followers, the exiled Bashaw, and his principal officers, in conformity to the third article of the treaty, which bound the United States to withdraw their forces immediately from Derne, and to give no aid to the rebel subjects of the

Bashaw at that place. This was a thunderbolt to General Eaton; but he had no time for complaints. To escape was the difficulty; to extricate the Christians and chiefs from their deserted associates was as perilous as indispensable, and was effected by stratagem, under cover of the night, and by the aid of the unfortunate Hamet. Mr. B. here read an extract of a despatch from General Eaton to Commodore Rodgers, which showed the difficulty and peril of this operation.

General Eaton to Commodore Rodgers.

"I now communicated to Hamet Bashaw the news of peace with his brother. He said he had no safety but in leaving the country with us; and even this would be impossible with him, and hazardous for us, if the project should transpire before carried into effect; despair would drive his adherents to revenge, and we must all fall victims to it. I accordingly kept up the idea of an attack on the enemy, and sent ammunition and extra rations to Moorish and Arab troops. At eight in the evening I placed patrols of marines to stop intercourse between the town and our post. In the mean time, all the Constellation's boats were laid alongside our wharf. I ordered the captain of cannoniers to embark his company; and after them the Greek company. This was done in silence; when the boats were seen returning, I sent a message to Hamet Bashaw. Understanding the purport of this, he immediately repaired to the fort with his retinue, (about thirty persons, including Colonel Eugene Leitensdorfer,) dismounted, and embarked in the boats. The marines followed with the American officers. When all were securely off, I stepped into a small boat, and had just time to save my distance, when the shore, our camp, and the battery, were crowded with the distracted soldiery and populace; some calling on the Bashaw Hamet, some on me, some uttering shrieks, some execrations."

Mr. B. continued: A massacre was understood to have taken place the next day among the deserted followers of Hamet, and the revolted inhabitants of Derne, who had not saved themselves by flying, during the night, to the mountains and deserts. Hamet and his retinue lost every thing; tents, baggage, horses, which were turned loose as they dismounted on the sea-shore.

Hamet and his friends, Mr. B. said, were carried to Syracuse, whence he addressed a pathetic appeal to the people of the United States. With the indulgence of the Senate, he would read it, as he found it in the State papers which he had examined, to make himself master of all the facts in Colonel Leitensdorfer's case.

Hamet Caramalli to the people of the United States.

SYRACUSE, *September* 1, 1805.

"It is known to the whole world that the reigning Bashaw at Tripoli, Jussuff, obtained the throne by the murder of our father and elder brother, and by my exile, who came next in succession. Driven by his impious and cruel usurpation, I took refuge in Egypt, where I was kindly received by the Mameluke Beys, who gave me a distinguished rank in the military service. Reposing in the security of peace, I had ceased to repine for the loss of my throne, and regretted only the lot of my unhappy subjects, doomed to the yoke of my cruel and tyrannical brother.

"It was at this epoch that the arrival of General Eaton gave me hopes of better fortune; and, though I could not tell what were his powers, I trusted to the faith of a great people, of whom he was the ostensible representative, and threw myself into his arms. With our joint followers, we had already advanced six hundred miles in the kingdom of Tripoli, and a general defection had seized my brother's army, and all things prepared, the protected of America to be hailed sovereign of his usurped throne. At this juncture a peace is concluded, in which a throne, acquired by rapine and murder, is guarantied to its usurper; and I, the rightful sovereign, the friend and ally of America, am left unprovided for. No article in my favor; no provision for me and my family, and no remuneration for the advantages I had foregone in trusting to American honor, I am left at Syracuse, with thirty dependants, on the pittance of two hundred dollars a month.

"In this situation, I appeal to the virtue, generosity, and candor of the people, and candor of America. I trust that a brave and free nation will interest itself in behalf of a fallen prince, who had trusted to its national honor and good faith. I trust the Government will take my case into consideration, and at least send me back to Egypt, indemnified for those comforts lost by uniting my fortune to theirs."

This affecting appeal, said Mr. B., was not lost upon Mr. Jefferson's administration. An act of Congress was immediately passed for the temporary relief of Hamet, and in terms that implied a determination to make him a permanent provision; but his death intercepted the intended boon, and Christian honor remained unvindicated to a Mussulman prince.

Mr B. apologized for this slight digression on the subject of Hamet Caramalli, who seemed to him to have been a good man, tried in the desert by the Christians, and found true—unfortunate, and his misfortunes doubled by his connexion with Americans. He would proceed with the case of the petitioner. Dropped at Syracuse by the American frigate, pennyless and a stranger there, he turned his eyes to America, and received from General Eaton the testimonial which was to be his title to the hospitality and justice of the American Government and people.

"SYRACUSE, *July* 15, 1805.

"I certify that Colonel Genié, of Leitensdorfer, has been seven months in the service of the United States of America, in capacity of inspector general and chief engineer, with the allied forces on the coast of Africa; passed the deserts of Lybia with them, and was extremely useful and active in the defence of Derne while in our hands: for which he merits the respect and protection of the citizens and Government of the United States.

"WILLIAM EATON,

"*United States navy agent of the several Barbary Regencies, and late commander-in-chief of the forces at Derne.*

"Countersigned: GEORGE DYSON,

"*United States navy agent, Syracuse.*"

But Colonel Leitensdorfer had a son in the Tyrol, the country of his nativity, and it was his intention to bring that son to America. In attempting to reach him, he encountered new misfortunes. At Velona, in Dalmatia, he was recognised by the Turks, seized, and made a slave. Escaping on board an English schooner, and totally destitute, he entered as a non-commissioned officer in Count Froberg's foreign regiment at Malta. At the end of six months he obtained his discharge, couched in terms of peculiar respect and honor, which Mr. B. read to the Senate. Returning to Sicily, he embarked on board an imperial vessel to sail for America. Here a new misfortune overtook him. The Austrian vessel was captured by a French privateer, and himself again stripped of every thing. Finally, by the assistance of Mr. Appleton, the United States consul at Leghorn, he was enabled to reach the country on which, for four years, he had fixed his eyes and his hopes. Arrived here, his first object was to find General Eaton, who received him as a brother in arms and

misfortune, and by whose biographer he is thus mentioned:

"In December, 1809, he was visited by Leitensdorfer, or Eugene, the man whom he sent to Upper Egypt in search of the ex-Bashaw, and who acted as a colonel in the battle of Derne. No man ever appeared to be more gratified than General Eaton by this unexpected visit. Leitensdorfer tarried several days, then took his departure for the City of Washington, having first received from Eaton certificates of his unrewarded services, and recommendations to General Bradley, of the Senate, and other members of Congress, to enable him to substantiate and obtain his dues."

He carried a letter from General Eaton to President Madison, of which the following is a copy:

Letter from General William Eaton to President Madison.

"BRIMFIELD, *Dec.* 23, 1809.

"The bearer, Colonel John Eugene, of Leitensdorfer, served with me very faithfully in character of adjutant and inspector general in my expedition on the coast of Barbary in 1805. He exhibited talents, courage, and perseverance. Before the battle of Marengo he commanded a regiment of Tyrolese chasseurs. He was extremely useful to us in passing the desert and at Derne. He seeks asylum in this country, and I hope he will find patronage.

"With profound respect, I have the honor to be
Your excellency's very obedient servant,

"WILLIAM EATON.

"His Excellency the PRESIDENT
of the United States."

At Washington Colonel Leitensdorfer became a petitioner to Congress, and at the end of two years obtained the pittance which is mentioned in his petition, namely, three hundred and twenty acres of land, for his perilous enterprise in drawing Hamet Caramalli from the Mameluke camp in Upper Egypt, which land was to be located west of the Mississippi, where no land office was opened for seven years afterwards; and the pay of a captain of infantry, without emoluments, for the seven months which he served with General Eaton; the very act which paid him as a captain, reciting his true rank of adjutant and inspector general.

During the two years which he spent at Washington engaged in this solicitation, said Mr. B., the petitioner lived upon his own resources, occupying an unfinished room in the north wing of the Capitol, granted to him by Mr. Latrobe, cooking for himself, and doing any kind of labor to gain a subsistence. Mr. B. said it was due to the petitioner to read the letter which Mr. Latrobe gave him on this occasion. It was a letter to General Bradley, of the Senate.

Copy of a letter from Mr. Latrobe.

"WASHINGTON, *Jan.* 30, 1811.

"SIR: In compliance with your desire, expressed in your letter of yesterday, I cheerfully add my testimony to that of others, respecting the character of Mr. E. Leitensdorfer. Mr. E. Leitensdorfer was brought to me for the purpose of enabling him to explain his situation and his wants to Congress. He was at that time without any means of providing the common necessaries of life. I employed him in my office in drawing and writing, and in the field in surveying and levelling for the Washington canal and turnpike road companies. With his history, prior to my knowledge of him, I could only be acquainted from the written testimonies in his possession, which no doubt have been all before you, and from his own information. I never had reason to hesitate as to his strict adherence to truth in those points in which I could decide on his veracity, and therefore am willing to give him credit for the truth of his account of himself throughout.

"During the time of my acquaintance with him, his personal conduct has been most scrupulously honorable and virtuous. Far from having any habitual vices, he is abstemious in all his enjoyments. He submits, without a murmur, to perform any duty, however menial, by which he can secure an independent existence; and has rigidly and perseveringly refused all gifts and subscriptions for his support. He has actually maintained himself since his arrival. As to his knowledge, it is very evident that he has had a liberal education, and is a good field engineer. He speaks several living languages, and is a good Latin scholar; with the cultivation of the vine, and the management of fruit trees, he is so well acquainted as to have been of singular service in the gardens of many of the inhabitants of this District. He professes, also, to understand the business of raising silk worms, and of the culture of the olive; and, in general, to be master of those branches of culture which all the nobility of Tyrol, and the nobles of Italy, depend upon for their incomes. To his virtuous and peaceable demeanor the inhabitants of the part of the city near the Capitol can bear unanimous testimony. I have known him, and narrowly observed him, for more than a year. His conduct has been uniform, and I have no hesitation in declaring him to be a man whose principles and actions would honor any country; and whose knowledge, industry, and talents, may be exceedingly serviceable to our own.

"Yours, very respectfully,

"HENRY LATROBE.

"The Hon. General BRADLEY."

The land warrant which he had obtained, and which was to be located west of the Mississippi, turned his face towards the Territory of Missouri, where he married, became a cultivator, father of a family, and, for twenty-two years a model of labor, of industry, and of irreproachable propriety of conduct. His mode of cultivation is strictly European; garden, orchard, vineyard, bees; every thing the best of its kind, and selling in the market of St. Louis, with the same hands that raised them, the fruits of his daily labor.

Mr. B. said he had confined himself to that part of the petitioner's history which was necessary to make out his title to the relief which he prayed; but what he had related was the most inconsiderable portion of his eventful life. Educated for the priesthood, he betook himself to arms at the age of fifteen, and was cadet of hussars at the siege of Belgrade under Marshal Laudohn. At the breaking out of the wars of the French revolution, he served under Marshal Clairfait, in the low countries; afterwards under the Archduke Charles on the retreat of Moreau. Then he served in Italy under Alvinzi, Wurmsur, and Melas. Forced to quit the Austrian service, for a duel with a brother officer, he ran for four years a career of adventure, embracing Europe, Asia, and Africa, almost rivalling, in reality, the fabulous inventions of the Arabian Nights. A pedler of watches in Switzerland, a Capuchin friar in Sicily, a pilgrim at Jerusalem and at Mecca; the keeper of a cafe in Alexandria; a traveller in Egypt, Nubia, and Abyssinia; a Turkish dervis at Bagdad; a physician at Trebizand; his various fortune brought him to Constantinople, where he took service in the Turkish army destined to Egypt to reduce the Mamelukes, and arrived at Grand Cairo in 1804. At this point his history connects itself with that of General Eaton and the expedition to Derne, and is known to the Senate.

Mr. B. added that, for nearly twenty years, he had

personally known the petitioner, and never knew a more exemplary citizen. Reproach had never been coupled with his name. He had the respect of every gentleman of intelligence, and was able to add to the information of all; for he spoke ten languages, and was familiar with the great events which had convulsed Europe, Asia, and Africa, for twenty years of their most eventful history. His pride now is to live *en philosophe*, as he calls it, working for his family and educating his children. But he wants, what he thinks is due to him, the six hundred and forty acres of land which the House of Representatives voted to him in 1811, for bringing off Hamet Caramalli at the double risk of his life, and which the Senate reduced to three hundred and twenty acres; and the pay and emoluments of colonel and adjutant general, which was his real rank in our service, instead of the pay, without emoluments, of captain of infantry, which he was not. And then a pension for the remainder of his life.

Mr. POINDEXTER objected to the bill, and inquired whether General Eaton had ever received land for his services at Derne.

Mr. BENTON believed that General Eaton had not received any land from the United States. He deemed him a meritorious and injured man; and if his heirs should apply to Congress, he would view their application as standing on the same foot with the grant to General Lafayette, and on a better foot than stood the grant to the Polish exiles, for both of which he had voted.

Mr. WEBSTER was understood to remark that General Eaton had received no land.

Mr. PRESTON expressed a desire to extend to the petitioner the most liberal justice, but found it inconsistent with his sense of national policy to vote for the pension clause.

Mr. BENTON, on the suggestion of Mr. PRESTON, and several Senators, moved to strike out the pension clause, which was done.

The bill was then ordered to be engrossed for a third reading.

Mr. WEBSTER then moved that, when the Senate adjourn, it will adjourn to meet on Saturday next; which was agreed to.

The Senate then adjourned.

SATURDAY, DECEMBER 27.

Several private bills were reported in the Senate to-day, and two or three memorials received and referred; when

The Senate adjourned.

MONDAY, DECEMBER 29.

The Senate met to-day, and, after transacting some business of minor importance,

Adjourned.

TUESDAY, DECEMBER 30.

RELATIONS WITH FRANCE.

A message was received from the President of the United States, by Mr. DONELSON, his private secretary, communicating a report from the Secretary of State, and the papers relating to the refusal of the French Government to make provision for the execution of the treaty of July, 1831, between the United States and France. The message was in response to the resolution submitted by Mr. CLAY and adopted some days ago.

Mr. MANGUM moved that the papers be referred to the Committee on Foreign Relations, and that they be printed.

Mr. CALHOUN expressed a wish that the motion to print might include the debates of the French Chambers upon the subject of the treaty, and the letter of Mr. Rives, which was supposed to have caused some difficulty on the subject of the appropriation. He wished that a full and complete view of the whole subject might be laid before the nation.

Mr. MANGUM said there were also two or three other important letters which it was necessary to have printed; he would, however, confine his motion now only to the reference, and withdraw the motion to print.

Mr. CALHOUN also withdrew his motion to print the debates, and expressed a hope that the honorable member [Mr. MANGUM] would attend to it at the proper time.

The communication and documents were then referred.

ADMINISTERING OF OATHS.

Mr. POINDEXTER reported a bill from the House, to authorize the receivers and registers of the public lands to administer certain oaths, &c., without amendment.

Mr. P. said that he was instructed by the committee, whenever this bill should be called up, to move its indefinite postponement.

It appeared that the Commissioner of the General Land Office had prescribed the form of an oath which was to be administered to all persons making entry of public lands, requiring of them to swear that they had been upon the lands which they proposed to enter, and there was no one there who possessed a right of preemption. This was a regulation calculated to throw great difficulties in the way of the purchasers of public lands. The committee could find no law in existence authorizing the administering of such oath; nor, as far as he was informed, was there any authority given to an officer of the Government to prescribe any oath at all.

In connexion with this subject, he was instructed to offer the following resolution, and to ask for its consideration at this time, in order that the Senate might be enabled to act on the bill at an early day. He then offered the following resolution, which was considered and agreed to:

Resolved, That the Commissioner of the General Land Office be directed to lay before the Senate a copy of any oath or oaths prescribed by the Department of the Treasury to be administered to all persons who may become the purchasers of the public lands subject to entry at private sale; and that the said Commissioner report to the Senate under what act of Congress the said oath or oaths was authorized to be prescribed and administered.

BARRACKS AT NEW ORLEANS.

Mr. BENTON, from the Committee on Military Affairs, to which have been referred the bill making an appropriation for the repair and completion of the barracks at New Orleans, reported the same without amendment.

Mr. WAGGAMAN explained the character of the bill, [which appropriates $170,500 for the object.] It related to the barracks at New Orleans, which were now in an unfinished state. He referred to a report of the quartermaster general, made at the last session, and read extracts from the same, showing the state and importance of the works. He had recently seen the works, and could say that, as they had progressed, the work was faithfully executed. It was necessary for the public service that these works should be speedily finished, and he was induced, therefore, to ask the Senate to proceed now to the consideration of the bill.

The Senate then proceeded to the consideration of

the bill as in Committee of the Whole, and, no amendment being suggested, the bill was reported to the Senate without amendment.

Mr. BENTON then briefly explained that the estimates for these works had been received at the last session, but, owing to some accident, had not reached the proper committee until near the close of the session. The committee had then moved the insertion of the appropriation, as an amendment, in one of the general appropriation bills, and it had in this form passed the Senate. But in the House the amendment was rejected, as he believed solely because the character of the works was not sufficiently indicated.

The bill was then ordered to be engrossed, and read a third time.

SETTLEMENT OF LAND CLAIMS.

The bill providing for the final adjudication and settlement of claims to lands therein mentioned, was taken up and considered as in Committee of the Whole.

Mr. KING, of Alabama, moved to lay the bill on the table; but withdrew the motion at the suggestion of

Mr. PORTER, who made an explanation, in which he reminded the Senate that the bill had passed this branch at the last session, but had not passed the other House, in consequence of its being sent there at too late a period of the session. It was then fully discussed, and had passed the Senate without a division. He stated that there were three titles embraced in the bill—those of the Marquis de Maison Rouge, of Baron Bastrop, and of the heirs of Winthrop. The object of the bill he stated to be merely to have the decision of these titles submitted to a court of law, in order that, if they were adjudicated to be bad, the lands might be given up, and if good, the holders might have valid titles. He explained the inconvenience to the State of Louisiana of so large a portion of her lands being covered by claims which were thus held in dispute, and consequently could not be securely occupied. Considering that strict justice required a decision by a court of law on the validity of these titles, he hoped that the bill would be acted on without any postponement.

Mr. KING, of Alabama, made a few observations in reply, in which he adverted to the great importance of the interests involved in this bill, and the necessity for a clear understanding of the subject before there was any action upon it. Some of these grants were of a doubtful character, and investigation was necessary. He admitted the importance of the adjustment of the claims to Louisiana; but desired delay only for the purpose of devising some better mode of settling the business, believing that a better could be devised.

Mr. PORTER replied that he should be glad if any better could be named. But he regretted that he could not consent to a postponement. If the bill were postponed now for a few days, at the instance of the gentleman from Alabama, he might at the end of that time be just in the same condition, and might require another postponement, and thus the passage of the bill at this session would be endangered. He knew of no better mode which could be adopted than a trial by law. He intimated that the wisdom of the gentleman from Alabama, or of any other man, could not devise a mode which would prevent a final decision of this question by a court of law. The question was only one as to the time. If the occupants were not secured in their titles, or the invalidity of those titles declared under the authority of Congress, individual suits would be instituted, and the decision must thus be submitted to a judicial tribunal. He suggested that the course prescribed by this bill was the one which would be the most advantageous to the Government. He stated that it was not to be presumed that he was in favor of the claims, for he had not made up any opinion on that subject, but he desired that the State of Louisiana should be freed from the inconvenience to which it was subjected by the unsettled condition in which they stood.

Mr. KING, of Alabama, moved to postpone the further consideration of the bill, and to make it the special order for Monday next.

Mr. POINDEXTER urged some reasons against the motion, admitting that, if he thought the gentleman from Alabama only desired postponement to enable him to obtain a competent knowledge of the subject, he should make no opposition. But he suggested the propriety of Congress coming to an early decision. This bill had been frequently passed, and he did not recollect that it had ever been rejected. The principle on which it rested was confined within a nutshell. By a treaty of Louisiana, the United States agreed to confirm all grants of lands which had been made in conformity with the laws and usages of Spain. No commission had been established with powers to confirm these grants, which lie over for adjudication, and in the mean time the occupants have no titles. He then referred to the facilities which this unsettled condition of the claims presented to speculators. It was very desirable to have their titles referred to the decision of the courts of law, so that the question might be finally brought before the Supreme Court, and thus set at rest for ever. If the titles were adjudged to be bad, the parties would then have to be deprived of the lands for ever, and they would revert to the United States. If not, the owners would be able to give valid titles.

It was very desirable to send the bill speedily to the House, and unless the gentleman from Alabama desired time to make up his opinion, he should oppose any postponement.

The motion to postpone was then negatived without a division.

The bill, was then reported without amendment, and ordered to be engrossed and read a third time.

FRENCH SPOLIATIONS.

The CHAIR then called the special order, being the French spoliation bill; when

Mr. WEBSTER having expressed his willingness to be governed by the convenience of the gentleman from Rhode Island, [Mr. ROBBINS,] who was entitled to the floor, whether he should urge the bill on to-day or not—

On motion of Mr. CLAYTON,

The Senate proceeded to the consideration of executive business; and, after spending some time therein,

Adjourned.

WEDNESDAY, DECEMBER 31.

The Senate did not sit to-day, being engaged in attending the delivery of the oration before the two Houses of Congress by JOHN QUINCY ADAMS, on the life and character of General Lafayette, agreeably to a joint resolution.

THURSDAY, JANUARY 1, 1835.

The Senate did not sit to-day.

FRIDAY, JANUARY 2.

MAIL ROUTE IN MISSISSIPPI.

The CHAIR communicated a report from the Post Office Department, concerning a mail route through Mississippi, called for by a resolution of Mr. BLACK.

Mr. BLACK said that this route was thought a matter of so much importance, that petitions, very numerously signed, had been forwarded to Congress, and the Legislature of the State of Mississippi had also addressed a me-

morial to Congress, requesting its establishment. It was thought a matter of great importance to connect Natchez with a point in Alabama, (Burntcorn,) on the great southern route. The Postmaster General, in his report, has said that there are mails supplied to all the places on the route; so he concludes that the act has substantially been complied with. How is it, according to his own report? The mail is carried directly on the route indicated, from Burntcorn to Coffeeville, in Alabama; from that place, by Winchester, to Monroe, in Perry county, Mississippi; from that place, by a cross route from Mobile, the mail is taken to Ellisville, in Jones county. So it is not even true that all these places have been supplied with a mail by the direct route, and all the advantages which were expected from it have been lost. All the places indicated have had offices since the settlement of the country, so that was not the principal object originally in view in asking this route. This was as I have stated, and has been overlooked, while thousands have been expended in Alabama in extras. Some of the delegation here, soon after the passage of the act, received assurances that this route should be carried into operation, and it was understood and expected that it was to be done by having the mail carried in two-horse or four-horse coaches. Frequent inquiries having been made of him to ascertain the reason why this has not been done, as was expected; he had asked the information, and moved for the printing of the answer of the Postmaster General.

Mr. GRUNDY stated that the route asked for by the Senator from Mississippi would be established as soon as the present contracts had expired; but it must be apparent that to adopt it before would be to involve the Department in a double expense. He said that it was justly a subject of great complaint that, in all cases, the transportation of the mails was made secondary to the transportation of passengers. To this it was to be attributed that so much irregularity existed. He repeated that so soon as the existing contracts had expired, the route required by Congress would be established and put under contract.

Mr. BLACK replied that the Senator from Tennessee was under a mistake. Since the passage of the act establishing the new route, the contracts had been made, and the old route had been re-let.

And after a few other observations, similar to what he previously made,

The motion to print was agreed to.

MAPS OF THE PUBLIC LANDS.

The following resolution, submitted by Mr. POINDEXTER on Tuesday last, was taken up for consideration:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to cause to be prepared and laid before the Senate, manuscript maps of the several States of Ohio, Indiana, Illinois, Missouri, Mississippi, Alabama, and Louisiana, and the Territories of Michigan, Arkansas, and Florida; which maps shall contain plats of the public lands, within the aforesaid States and Territories, which have been surveyed under the authority of the United States, marking upon the maps aforesaid the lands the Indian title to which is not extinguished, and distinguishing by colors upon the maps aforesaid the lands granted to the army, the lands sold by the United States, the lands granted to each of the said States and Territories for the endowment of colleges, or reserved from sale for the use of schools; or confirmed to persons claiming under British, French, or Spanish titles; and also the lands surveyed as aforesaid, remaining unsold; stating likewise the computed number of acres of each of the enumerated classes of lands, and the number of acres which may have been surrendered to the United States under any law passed for the relief of the purchasers of the public lands. And that Charles Gordon, who was employed in making the aforesaid maps, under a resolution of the Senate of the 28th of February, 1823, and who has made some progress in the work, be continued in said service until the maps herein directed to be made out are completed.

Mr. WRIGHT expressed a hope that this resolution might not be pressed this morning. It had not attracted his attention till now, and therefore he was not prepared to vote upon it. A similar resolution had been passed, he believed, some years ago, requiring the Secretary of the Treasury to form a similar work to that contemplated by the resolution, and some progress had been made in it. He (Mr. W.) desired to inquire whether the Secretary of the Senate had it in his power to prepare it, and next, what the probable expense would be? He was ignorant of the effect which the resolution was calculated to have, and whether the work was proper to be performed.

Mr. POINDEXTER said that the resolution was submitted at the instance of the Committee on Public Lands. It was to furnish a work which should present a complete view of all the States and Territories in which the public lands were situated, as well as of the several surveys and grants of lands made. The Secretary of the Treasury was not the agent of the Senate, and, if done by the Secretary of the Senate, the expense of it would form a part of the contingent expense. He had no objection to the reference to the Secretary of the Treasury; but he thought the honorable member [Mr. WRIGHT] would perceive the importance of the resolution; he had no objection that it should lie for a short time; indeed, he had rather it would take that course.

The resolution was laid on the table; and, on motion of Mr. POINDEXTER, it was ordered to be printed.

THOMAS CUTTS.

The unfavorable report of the Committee on the Judiciary, on the memorial of Thomas Cutts, was taken up and considered.

Mr. SHEPLEY moved to lay it on the table for future consideration, as he thought the principle on which the claim was made had not been fully understood by the committee. He stated that the petitioner had purchased an interest in a vessel sold at auction, on an execution of the United States, under an express warrant from the United States marshal that the title was good, and any losses which might accrue to the purchaser, through a defect of title, would be repaid by the Government.

Mr. LEIGH stated that the principle on which the committee had decided the case was, that the law of the United States did not authorize such a warrant, and that no ignorance of the law, either in the purchaser or the United States officer, could legalize or render valid any claim to indemnity.

Mr. SMITH expressed doubt in regard to this principle, at least in its application to the present case. It had turned out that the original debtor to the United States, against whom the execution had been issued, had no title whatever to any part of the vessel, at the time of sale. The United States then had sold, not the property of the debtor, but property to which neither he nor the Government had any title. Under these inconsistencies, he was disposed to favor the claim of the petitioner to indemnity.

Mr. CLAYTON was opposed to the claim. The purchase had been made under a full knowledge of the circumstances, except that he was ignorant of the law which would not make good his title to indemnity; and besides, by the purchase which he had made, he had foreclosed all remedy by the Government against the original debtor.

Messrs. POINDEXTER and PORTER argued further in favor of the claim.

And the report was laid on the table.

EXEMPTION OF MERCHANDISE FROM DUTIES.

The bill to exempt merchandise imported into the United States from the operations of the act of May, 1828, entitled an act in alteration of the several acts imposing duties on imports, was then taken up as in Committee of the Whole.

Mr. WEBSTER stated that this bill had been introduced by his colleague, [Mr. SILSBEE,] and had been referred to the Committee on Finance, by which it had been reported without amendment. It was the same bill which had been before Congress last session, and had then passed the Senate as it had done before. He believed there could be no necessity for any discussion of the bill, as it must be well understood by every Senator.

Mr. WRIGHT adverted to the great importance of the bill, as a reason why it should not be passed, without great consideration. He stated the circumstances under which the bill had passed, and the reasons which operated to fix the date to which its benefits were to be limited at the 1st of September. The merchants stood on broad ground when they claimed the extension of the exemption until the 1st of September, because they had sent out large orders which it would have been impossible to countermand before that time. But there was an essential difference when this extension was claimed now to the 31st of December, being five months beyond the original time prescribed by the bill. As to the amount of duties which it would be necessary to refund, if the time were thus extended, it could not be ascertained, without a call through the Treasury Department, and the four principal custom-houses of the Union. The Secretary estimated that if relief were extended only to the 1st of September, it would require a repayment of $450,000. He had not learned that any estimate had been made on the basis of the extension to the 31st of December.

Mr. SILSBEE made some observations in explanation of the condition of the merchants, and the necessity of the extension of the time, but we could not distinctly catch the purport of his remarks, so as to be able to give an accurate report. He believed the merchants had an equitable claim to the exemption, and that it ought to be provided.

Mr. WRIGHT and Mr. SILSBEE mutually explained.

The bill was then reported to the Senate without amendment.

Mr. HILL asked for the yeas and nays on the question of the engrossment of the bill, and they were ordered.

The question was then taken on the engrossment, and decided in the affirmative, as follows:

YEAS—Messrs. Bell, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kent, Knight, Naudain, Poindexter, Prentiss, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Waggaman, Webster—20.

NAYS—Messrs. Benton, Bibb, Black, Brown, Calhoun, Grundy, Hill, Kane, King of Alabama, King of Georgia, Leigh, Moore, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wright—19.

IMPROVEMENT OF THE WABASH.

The bill for the improvement of the navigation of the Wabash river was then taken up for consideration, as in Committee of the Whole.

Mr. HENDRICKS said that the position he occupied in relation to the bill now before the Senate, as well as to former bills on the same subject, rendered it necessary and proper for him to say a few words on the present occasion; that duty and inclination alike impelled him to this course; and that if any apology should be thought necessary for obtruding himself on the attention of the Senate, it would be found on the table of every Senator, in the form of instructions to himself and his colleague, from the Legislature of the State they represent. These accompanied the printed report recently made by the Committee on Roads and Canals on the subject of this bill.

It would be recollected, said Mr. HENDRICKS, that at the last session, the bill to improve the navigation of the Wabash, about which so much had recently been said here and elsewhere, had been introduced by himself on leave of the Senate. It would also be recollected that, heretofore, himself and his colleague had been unsuccessful in endeavoring to have the improvement of this river classed with works of internal improvement already begun, however firmly they were of opinion that the Wabash and Erie canal, a work now in rapid progress, and a work to which this Government had made large appropriations of public lands, was but a part and portion of this very work; and that that appropriation of public lands would fairly class the improvement of the Wabash with works already begun by the means of the Federal Government. They had been, however, foiled in their attempts to have it so considered by the Senate. This work, the improvement of the river, was then classed with new objects of internal improvement, and became an item in the harbor bill of 1832, which received the veto of the President. We all recollect, said Mr. H., that bill and its history. The work, in the opinion of its friends, having such high claims to national importance, was only endangered in 1832 by the society in which it was found; for it was most certainly believed, and especially by the friends of the present administration, that this item, unconnected with others, would not have met the disapprobation of the President. Murmurs, too, were heard, somewhat loud and reproachful, against members of the delegation, who were supposed to have had this matter more especially in charge, for permitting it thus to be classified and defeated.

In this view of the matter, then, and that it might stand on its own basis, and alone, I determined at the last session, said Mr. H., to present it in a separate bill, drawn up in the same language, and asking for the same amount, which had been sanctioned by both Houses, as an item of the harbor bill. In this form it was presented to the Senate; in this form it passed both Houses, and was presented for the signature of the Executive. I give this history of it to present it fairly before the Senate. It was my intention, had the resolution referring it to the committee not been introduced by my colleague, to have asked leave of the Senate, and to have introduced the same bill; but the one form is as good as the other, and the same result is produced.

The views of the President on the subject of internal improvement I very much regret; because, in their effects, they are, in my opinion, injurious to the prosperity of the Union, and especially are they so to the great interior whence I come. With his views, however, it is unnecessary on the present occasion to conflict; for this bill stands upon its own basis, and is not, as I believe, obnoxious to his objections. But I would here merely remark on the subject generally, that it does seem to me reasonable that this Government, being the great landholder of the West, and in all the new States, should sustain a portion of the expense in making the principal primary roads. The owners of the soil in the new States, whose property is supposed to be increased in value by roads when made, are taxed for making them; and why should the Government be exempt from its fair proportion of the assessment? But

the case is still stronger in relation to rivers, which the Federal Government declare to be public highways, assume jurisdiction of, retain perpetually the ownership of, exclude them from the surveys, and thus prevent them from becoming private property of the citizens, or the property of the States through which they flow. If the Government of the Union has not power to improve them, where does it get the power of jurisdiction over them? For that power of ownership and jurisdiction necessarily excludes the ownership and jurisdiction of the States. If the States have neither ownership nor jurisdiction, they surely have not the power of taking possession of them, even for the purpose of improving them. If they have no control over the bed of the river, how can they stop a channel here, and open another there? or drain the river into a feeder, for the purpose of canals?

The Congress of 1787, by its ordinance, declared the river Wabash a navigable river; and this has been repeated by the act of 1796, and other subsequent acts in relation to other streams of the new States. The rapids of the Wabash, below Vincennes, say for fifteen miles, will certainly be best improved by a canal of that length, or perhaps longer. A few years ago a corps of engineers were instructed to examine many places proposed for the location of a western armory. Now, suppose this armory to be located and put in motion there, would this Government permit the States of Indiana and Illinois to withdraw the water of that river from a valuable public work, into the feeder of a canal? If the river belong to the Federal Government, the States cannot, without permission of the Government, enter upon it even for the purposes of improvement. The power of improvement, then, seems inseparably connected with ownership and jurisdiction. To say that the latter exists in this Government, and not the former, is to say that the improvement can never be made without a compact on that subject between the Federal Government and that of the States. And no one would contend that such a compact could confer any power, which was not previously in the constitutions of the respective Governments. The power of improving the navigation of rivers, surely belonged to the States before the formation of the Union. It is since either transferred to the Government of the United States, or, not being so transferred, is reserved to the States, or, by the formation of the constitution of the United States, it is entirely annihilated. Now, in the case of the Wabash, it is not reserved to the States; for, by compact and ordinance, Congress declared its power over it, declared it a common public highway, and guarantied its free navigation for ever. The power, then, to improve this river, not being reserved to the States, is in the Federal Government, or it is annihilated. That it is not annihilated, but remains in this Government, under the sanction of the constitution of the United States, is obvious and certain, by reference to the sixth article of that instrument itself.

I will now, Mr. President, proceed to state some reasons for believing that this work of internal improvement, the navigation of the Wabash river, rests upon a basis essentially different from other ordinary objects, such as those chiefly comprised in the harbor bill of 1832. Indeed, I have great reason to believe that the President could not have been in possession of all the facts of the case, or he would have taken a totally different view of the whole matter. In the first instance, then, this is not a new work. It is emphatically an old work, commenced about two years ago, and now in successful progress. A work to which this Government has already appropriated a portion of her public lands, a portion of the very means by which the work is now carried on; for the canal is but an improvement of the navigation of the river in and through the State of Indiana. And what is this work? It is a work which, when finished, will form a perfect inland navigation between New York and New Orleans, on the shortest and most eligible route. It is true that the bill before the Senate is to improve the navigation of the Wabash river; and the appropriation, if made, will no doubt be chiefly expended in improving the rapids below Vincennes, possibly by a canal around them: for, whether that mode of improvement be now adopted or not, it will, no doubt, be the mode ultimately adopted. The canal will rather pause than stop at the mouth of the Tippecanoe. So greatly important will be that link in the chain which the Wabash is destined, for a while, to supply, that the canal will ultimately be constructed down the entire length of the Wabash to the Ohio river. And, sir, what was the origin, and what is the present condition of this work, already begun under the united auspices of the Federal Government, and that of the State of Indiana? The origin of the Wabash and Erie canal, said Mr. H., was a law of Congress of March 2, 1827, appropriating a quantity of the public lands, equal to five miles in width, along its whole line, to aid the State of Indiana in constructing a canal to unite the navigable waters of the Wabash river with those of Lake Erie. In addition to this important grant of lands, a corps of United States engineers was detailed to locate the canal, the whole expense being paid by this Government. The canal was located from the Maumee bay, on Lake Erie, across the summit level near fort Wayne, and down the Wabash river to the mouth of the Tippecanoe. The whole distance is two hundred and eleven miles, about seventy-five of which are within the limits of the State of Ohio, and the remaining one hundred and thirty-six within the State of Indiana. The State of Ohio has, by compact with the State of Indiana, agreed to construct that portion of the canal which lies within her own boundaries, and the State of Indiana has relinquished to her a corresponding portion of the grant. The State of Indiana has entered with spirit on her part of the work. She has sold a portion of her lands, and made other large appropriations, and the work is going rapidly on. It is proper here to remark, that the river below the mouth of the Tippecanoe has also been surveyed by an officer of the engineer corps, at the expense of the United States. An appropriation to that object was made in 1828; Captain Smith, of the corps of engineers, was detailed to that service in 1829, and made his report to the War Department in 1831. This report, with estimates of that officer, will be found on the tables of the members.

Of the one hundred and thirty-six miles spoken of, seventy are under contract, and about thirty-five at this moment completed. It is, furthermore, contemplated to finish the work in the year 1836 or '37. The State of Ohio, we believe, will not be long after that period in constructing her portion of it to the Maumee bay, and instead of being premature, then, as has been intimated, in asking for this appropriation for the river, this will, no doubt, be the last portion of the work done; it will, in all probability, be found undone when the canal shall be finished. This work, then, is vastly more important than the improvement of any other river of its size. It is more important in the extent and magnitude of the navigation with which it is connected, in the greatness of the commerce which it creates and accommodates, and in the unparalleled extent and productiveness of the regions of country through which it passes.

Another reason why I believe that the improvement of the navigation of the Wabash has stronger claims upon this Government than almost any other object presented, is that the importance of the navigation seems to have been within the view of the Government before the constitution was formed. It seems to have been pro-

vided for by the Congress of the confederation, and the provision thus made to have been afterwards sanctioned by the constitution itself. I allude (said Mr. H.) to the ordinance of Congress of July, 1787, which is declared to be a compact, "unalterable unless by common consent," between the original States and the people and States in the Northwestern Territory, wherein the navigable waters of the Wabash, and of the Miami of Lake Erie, and the carrying places between them, are declared to be common highways. The ordinance alluded to is in these words:

"The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and for ever free, as well to the inhabitants of the said Territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor."

Now, sir, the people of the Northwestern Territory, at this time the people of the States of Ohio, Indiana, Illinois, and the Territory of Michigan, have never as yet requested any change in this ordinance. It remains now as it was then. It secures to the people of the then Northwestern Territory the free navigation of the rivers leading into the Mississippi and the St. Lawrence, as well as the carrying places between them; and, although there is no positive stipulation, in so many words, that the Government of the Union shall improve, and keep in the condition of usefulness which the country may need and require, those great highways of commerce, yet the implied intention and pledge of the Government to do so has always appeared to me too strong to be resisted. Nor was the extent or binding obligation of this compact at all weakened by the constitution of the United States, adopted afterwards; for in that very constitution, by its sixth article, it is declared that "all debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation." This ordinance, then, is sanctioned by the constitution itself.

In this view of the question it has always appeared to me that, instead of constitutional objections to these works of internal improvement, there is a direct constitutional obligation to carry them on and complete them; and I have always thought that, instead of aiding the State of Indiana in constructing the canal and improving the river, it was incumbent on the general Government to do both, without the interposition of the State. The carrying places referred to in that ordinance are well known to have been that at Fort Wayne, between the Wabash and the Miami of Lake Erie, and that at Chicago, between the waters of the Illinois river and those of Lake Michigan. There may have been others of less note, but these were the principal ones. That at Fort Wayne was especially well known. Its advantages and importance were perhaps even magnified, and there is little doubt that it was in reference to this, more than to any other, that the clause in the ordinance just referred to was framed and inserted. This carrying place had been known and used by the Indian traders before and during the Revolution. These had frequently passed over it in pirogues and canoes in rainy and flood seasons of the year; and, subsequent to that period, detachments of United States troops, with their baggage, have frequently passed over this portage or carrying place in the same way.

This, sir, said Mr. H., is not a view of this matter now presented to the Senate for the first time. It is now about nine years since the proposition to make an appropriation of public lands to aid the State of Indiana in improving the navigation of the Wabash and Miami rivers, was first made by myself to the Senate; and in a report on that subject which it became my duty to make, as a member of the Committee on Roads and Canals, the ground of obligation on the part of the Federal Government to improve this carrying place, and to aid in this claim of inland navigation, was distinctly taken, and presented to the Senate.

This was relied on as a strong ground, and one which shielded the application then made from the constitutional difficulty about internal improvements. This ground was then sustained by the Senate. An appropriation of the public lands was made to this object in March, 1827, and by the united aid of this appropriation and of the energies of the State, the canal is now in rapid progress.

The State of Indiana is unable, at this time, to prosecute and to accomplish this work. She has embarked largely, considering her age and her resources; and the canal which she is now pushing rapidly on is as much as ought to be expected from her at the present time. Where the interests of the General Government, as in the present case, are in unison with those of the State, the object decidedly one of national importance, and where the obligations of the Federal Government to the people of the State and of the United States, in the construction of this work, are paramount to all others, it does seem reasonable that an appropriation should be unhesitatingly granted to aid in making this improvement; otherwise it must be left undone till the State of Indiana shall have finished her canal—which canal must still remain, for a great portion of the year, comparatively useless, till the river shall be improved.

The people of the Western country, (said Mr. H.,) as a matter of necessity, consume foreign goods almost to the entire amount of their surplus productions; and the landholder in that country is deeply interested in every facility of transportation to and from the country. That which diminishes transportation adds to the value of his agricultural productions, as well as diminishes the cost of custom-house goods. Every facility, too, of transportation diminishes the difficulty and expense of emigrants in getting to the country; brings more means and more people into the country; saves more of their means to purchase public lands after they get there; increases the receipts into the land offices, and is of lasting benefit to the emigrating classes of the old States.

In all ages of the world of which history gives us any knowledge, wheresoever civilization and the arts of peace have flourished most, there internal improvements have been most fostered by the Government; there roads and canals have been made to subserve the great purposes of agriculture and commerce; and the most warlike nations of the earth have also made these improvements the means of national defence, and used them as the most important facilities in offensive war. But considerations of this kind might be multiplied to an unlimited extent, and I shall not dwell upon them.

I have, sir, (said Mr. H.,) the most implicit confidence in the declaration of the President, in which he regrets that he could not give his assent to the Wabash bill. I believe that his feelings and inclinations were wholly in its favor, and I sincerely regret that he had not taken the view of the case which I have endeavored to present. Had he taken this view, I cannot but think that he would have come to a different conclusion; and to this different conclusion, it does seem to me, he might have arrived without in the least receding from any ground he has heretofore taken on the subject of internal improvements.

The rule by which appropriations for the improvement of rivers are confined to places below ports of entry established by law, has never been satisfactory to my mind. Nor does it appear to be very satisfactory to the President himself. It seems to imply that a work which is uncon-

stitutional to-day, may become constitutional to-morrow, by the simple passage of a law establishing a port of entry at the head of supposed navigation, and that the constitution can be changed, and new powers given to it, by the legislative power; a power which it has created, prescribed, and limited.

A port of entry, on some central position of this extensive navigation, will be convenient and useful. It will, probably, soon be indispensable. It was moved in the other House, at the last session, and conversations were had with the chairman of the Committee on Commerce here on the same subject. It was thought then to be premature, as the applications for aid in improving the river and in constructing the canal had, on previous occasions, been considered. I am anxious to have the reasonable assistance of this Government in perfecting this navigation, and the proper facilities created for using it when perfected. I am disposed, then, as I was last session, that a port of entry or delivery should be established at Lafayette, upon the Wabash; and have, at this time, this additional reason, that I doubt not it would remove all objections to an approval of the bill if it should again pass both Houses. These objections, however, I hope will be done away by other considerations; in addition to those already named, by the rapid and extensive progress of the canal since the close of the last session of Congress, and by the advance already made towards a perfect inland navigation between the two commercial emporiums of the country, New York and New Orleans. Important facts exist in the case now, that did not exist at the close of last session. Then, it was not a fact that thirty-five miles of the canal had been finished, and that the water had been let into the summit level section of the canal. Now these facts exist. The waters of the St. Joseph, a tributary of the Maumee, already flow upon the summit level of the country, and mingle with the waters of the Wabash. The water communication is now continuous, very imperfect to be sure, but it is continuous, between the ports of entry and delivery, which are numerous, on Lake Erie and those upon the Mississippi.

When Mr. HENDRICKS had concluded—

Mr. HILL moved to lay the bill on the table; which was negatived.

Mr. HILL then called for the yeas and nays; which were ordered.

Mr. POINDEXTER said that there was no difficulty in his mind in voting for this bill, other than that it was understood to have been introduced to remove the objections of the President to the improvement on the Wabash. He wished it to be understood that he had no such scruples as those of the President on that subject, and that he would not, by any vote of his, countenance so senseless a distinction as that between a river where there was a port of entry and where there was none. The President himself, said Mr. P., had signed a bill for clearing out the raft on Red river, where there was nothing but wolves and bears, for miles above the improvements, and what animals might be benefited by them he did not know. As to the President's refusal to sign a bill for the improvement of the Wabash, until a port of entry was established on the river, it was one of those senseless distinctions that might suit the school of a certain class of politicians, but would find no countenance from him.

The question was then taken on the engrossment of the bill, and decided in the affirmative, as follows:

YEAS—Messrs. Benton, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kane, Kent, Knight, Linn, Naudain, Poindexter, Porter, Robbins, Robinson, Silsbee, Smith, Swift, Tipton, Tomlinson, Waggaman, Webster—22.

NAYS—Messrs. Bibb, Black, Brown, Buchanan, Calhoun, Grundy, Hill, King of Alabama, King of Georgia, Leigh, Mangum, Moore, Morris, Preston, Shepley, Tallmadge, White, Wright—18.

The Senate then adjourned.

SATURDAY, JANUARY 3.

The Senate did not sit to-day.

MONDAY, JANUARY 5.

EXEMPTION OF MERCHANDISE FROM DUTIES.

The bill to exempt merchandise imported under certain circumstances, from the operations of the act in alteration of the several acts laying duties on imports, coming up for consideration—

Mr. BENTON said that this bill, on being ordered to be read the third time, a few days ago, seemed not to have attracted the attention of the Senate; it was ordered to a third reading, after a few minutes' conversation between two or three Senators; and he knew members who were standing behind the colonnade, who did not even know that the bill, if passed, would take a million and a half of dollars out of the treasury, and thus violate the plainest principles of law and equity that had ever been exhibited on the records of the Senate. There were many Senators who were not aware that the bill was on its passage. He (Mr. B.) was not speaking without duly considering what he was saying, when he stated that this bill was carried by virtue of its amount, and that it could not get along if it was reduced to about one-third. It was necessary, in order to get it through, that it should amount to a million and a half. Now, what was the principle of the bill? It was, that there should be a refunding of the duties paid on goods ordered within six months after the passage of the tariff bill of 1828.

And what would be the operation of the bill? It would be a refunding of the whole amount of the difference which accrued under the tariff law of 1828 over that of 1824, and between the passage of the act and the last day of that year. This was the effect of the bill: to refund the entire difference between the two acts, paid into the treasury for a period of six months. And for whose benefit was this money to be refunded? Was it for the consumer who had to pay the merchant for the advanced duty on his goods? No, not at all; the whole was to go into the pockets of the merchants who received their profits in proportion to the costs and charges which they had to pay. Yes, the whole was to go into their pockets. On what did the bill rest? Did it rest on the idea that Congress, in 1828, passed an act to take effect within a brief period, to operate on the orders that were then given, and the cargoes of goods that were coming in, and that, too, without letting those interested know what was done? Was this the case presented under this bill? Was there a gentleman, cognizant of the proceedings of the Senate and House of Representatives in 1828, who did not know that, so far from there being a mistake on the part of Congress, there was a most settled and persevering resistance made by those who carried the bill through, against postponing its operation. A motion was made, in this body, to postpone its operation from the 30th of June to September, but it was negatived by yeas and nays. The entire high tariff party were against allowing one hour beyond the 30th day of June, and now they were desirous of taking that money out of the treasury, which they, under a solemn oath, decided should be there deposited. He meant nothing offensive in stating this fact, but he thought it right that it should be called to the recollection of honorable Senators and the American people.

[Here Mr. B. read the proceedings of the Senate in 1828, on the tariff bill, for the purpose of showing that a majority of it were against postponing the time when it should go into effect, to the 30th of September.]

The minority had done all in their power to defer the period; they had struggled hard, but their efforts were unavailing. He believed it was out of the power of any gentleman to put forward one single reason in favor of those merchants whose orders were out six months after the passage of the act. The very gentlemen who now ask for this extension of time, had again and again opposed such extension in this body, and it was by them voted down. But what was the application which was now made? It was not merely to restore what was paid into the treasury between the 30th of June and 30th of September, but also that down to the 31st of December following. Why not all the duties that have been paid up to the present time? Could any reason be shown, either in law or equity, why the duties up to this time ought not as well to be refunded? This bill, he must declare, contained a principle that he had never before heard of, and which he thought had never been presented in any case that had come before the Senate. It was nothing more nor less than a naked, undisguised, barefaced, open attempt to take a million and a half of dollars out of the treasury, without one solitary reason on the face of the earth being assigned for it except this—that orders were given for goods, which could not be countermanded before the 31st December.

He utterly denied the validity of the reason that was assigned for refunding these duties. And the demand, too, was made by the same Senators who were now ready to vote down the very principle which they had on a former occasion advocated. Now, how could this be? And what was the amount? No estimate had as yet been furnished the Senate; all he knew was, that a lobby member was in attendance, as frequently happened when a great money bill was to be brought before the Senate. Now, the representatives of the people were intrusted with the responsibility of granting money, and they were competent to manage affairs of that kind. He, for one, was utterly opposed to the introduction of lobby members on the floor, or in the galleries of the Senate. And he likewise felt a disposition to oppose every large money bill, because there was sure to be some lobby member in attendance. At all events, it made him act very scrutinizingly whenever they were introduced. Now, what was the information before the Senate in regard to the amount of money which was to be drawn from the treasury, supposing it not to go beyond the 30th of September? Nothing but the meagre statement which had been presented by the gentleman from New York, [Mr. WRIGHT,] on a former occasion, stating that the Secretary of the Treasury had been asked to state what would be the operation of the bill as it then stood, and which extended only to the 30th of September.

The Secretary's answer was, that, for those sixty days, from the 30th of June to the 1st of September, according to the estimates which had been made out at the four principal seaports, $450,000 would cover the amount of the bill. Well, what was done in the months of July and August; those identical two months, corresponding with the period of time when most of the importations are made? And what was the amount of time which the bill was to cover? The months of October, November, and December—three entire months. Every one knew that, during the fall months, there was more importing business done than in all the summer months. In May, too, great importations took place, as well as in the months which he had just enumerated. And for ninety days, the amount of $1,500,000 was to be taken from the treasury! Yes, that was to be the effect of passing such a bill as that before them. We had thought we were getting rid of the public debt, but if the disposition which was shown in some quarters to push through great and extravagant appropriations of the public money be carried through, he feared we should have but a brief interval of congratulation on the accomplishment of so desirable an object.

Of the bills before the Senate, there was this one for $1,500,000; another far advanced in its stages for $5,000,000, and also another in relation to the public lands, which would draw $3,500,000 out of the treasury; making, in all, about $10,000,000 which would be thus disposed of by three bills, while the whole of the revenue of the year would not exceed $20,000,000. He trusted the gentlemen on the Committees of Commerce and Finance would take the subject again into their hands, and endeavor to discover what would be the amount it would be necessary to call for from the treasury. For himself, he should now make a motion that the bill be recommitted, "with instructions to ascertain from the Secretary of the Treasury the probable amount which the bill would take from the treasury, if it became a law; also, to state whether the amount so withdrawn would make the expenditures of the year 1835 exceed the estimated income; and how the deficit, if any, would be supplied."

Mr. WEBSTER rose and observed that, in its principle, its details, and its effects on the public treasury, this bill was entitled to attention. Yet it had been so recently before the Senate, as scarcely to render it necessary to go into details in relation to it. This bill had been before the Senate as early as 1829–'30. The proposed application of the bill had been originally limited to importations made before the 30th of September. The cases to which it was thought it should apply had been specified. When the subject was before the committee in 1832, discussions arose between those who were connected with the importations that had been made after the 30th of September. The result was, that the Senate passed the bill in its present form, in April, 1832, and in this form it passed without opposition. The Senate was undivided upon the subject. Yet it did not pass without investigation. In the House, circumstances had prevented the bill being acted upon. The bill came before the Senate the last year, and again it passed without opposition. Under these circumstances, the Committee of Finance were justified in reporting the bill in the form in which it had passed the Senate so late as June, 1833. The question now was on the third reading of the bill. If any gentleman desired to be informed upon the merits of the bill—gentlemen who had not before opposed the bill, but might now desire to do so—he (Mr. W.) had no objection to such a course. The measure was a very important one. It proposed to withdraw a large sum from the public treasury, and should not pass without a thorough investigation. Should it be the pleasure of the Senate to recommit the bill, he (Mr. W.) had no objection to its recommitment. There was nothing new in the present progress of the bill. When first presented, it had been adjusted to the entire satisfaction of the Senate. Should the bill be recommitted, the question for the committee would be, whether the bill was to be limited to particular cases, and to those cases only? Whether the cases to which it should be applied were the cases within the 30th of September, as the cases entitled to relief, and not those beyond that time, might create a division of sentiment among Senators. He agreed that they formed different classes, and it was not impossible that some Senators might be disposed to vote for the former and against the latter.

Mr. BUCHANAN rose and said that he had the misfortune to differ from the Senator from Missouri. It

was unnecessary for him to say that he entertained a high opinion of the judgment of that gentleman in all such cases. But it appeared to him that the principle of this bill was perfectly clear, and he would not forego what seemed to be a correct course on the opinion of any gentleman whatsoever. What was the principle of this bill? In all civilized countries, it was deemed necessary, before any law should take effect on the public, that the public should have every opportunity to understand its provisions, and to accommodate their conduct to the new state of things produced by the law. On that very principle, the French Government had agreed to indemnify us for captures made before the Berlin and Milan decrees had become known in this country. And what was the case with the tariff of 1828? It went into effect before it was possible that the commercial classes of the community could be prepared for it. No notice had been given of its provisions, the operation of which was retrospective, and consequently unjust. What was the principle of the present measure? It was to do no more than ought to have been done in 1828. It was to place the merchants precisely in the situation in which the tariff bill itself ought to have placed them.

There could be no perpetration of fraud under the provisions of this bill—no merchant could obtain the benefit it provided, unless he could satisfy the Secretary of the Treasury that he had ordered the goods in time. This was one provision. Another was, that the goods must have been ordered in a foreign country before there was any knowledge there of the existence of the law: and, further, that the merchant had no possible opportunity of countermanding the order. If the merchant were able to satisfy these provisions of the bill, it was just that he should not suffer. The bill was then so guarded, that, if these prerequisites existed, the merchant must also show that he had suffered actual loss to the amount claimed by him under the bill.

Now, although he was disposed to be as careful of the public money as any Senator, he was equally disposed to do justice, as far as he knew how, to every class of the people. He did not now intend to go into any detailed argument; but it was necessary that something should be done. He would vote for the recommitment of the bill, because he would rather, if it could be done without injustice, that an earlier day than the 31st of December should be fixed. But he should vote for the bill, let it come up when it would; because he considered that the Government was, in justice, bound to make good any losses which might have been sustained in consequence of any neglect sufficiently to protect the rights of any class of the people.

Mr. SILSBEE said that it appeared strange to him that it had never been discovered by at least three several Committees of Finance, by which this subject had been considered, that the bill would call for so large an amount from the public treasury as that intimated by the Senator from Missouri. The Senator had said this bill would call for $1,500,000, but he could not conceive by what calculation so large a sum was estimated. They had a report from the Secretary of the Treasury, by which it was estimated that not more than $450,000 would be required to the 1st of September, and he (Mr. S.) thought that even that estimate was too large. As to the danger of frauds, so much apprehended by the gentleman from Missouri, the bill was sufficiently guarded to prevent them. The importer must show to the Secretary of the Treasury, before he obtains the benefits of this bill, that he had ordered his importations before he had any knowledge of the passage of the tariff of 1828, that the goods were imported from a foreign country, and that he sustained a loss by the importation. All this, in so many cases, would be so exceedingly difficult to prove, that no attempts would be made to recover the duties that have been paid. His opinion, therefore, was, that $450,000 was more than would be called for.

If gentlemen wished for more information before acting on the bill, he was perfectly willing to give every opportunity for obtaining it; the only difficulty, however, in his mind, was the danger of protracting the further consideration of the bill until too late in the session to pass it through both Houses of Congress. He thought the Senator from Missouri would find it very difficult to prove that goods had risen in consequence of the act of 1828. He recollected obtaining from Philadelphia a price current, which showed that many articles of importation, particularly the most bulky articles, had considerably fallen. He knew the idea prevailed among Senators, that, on the change of a tariff, such as that in 1828, the merchant gets the difference in the duty; but there was no more fallacious an idea ever entertained, nor one more utterly repudiated by all intelligent commercial men.

The tariff of 1828 contained a greater increase of duties than any that ever passed through Congress, besides taking a more speedy effect. On the West India articles, particularly molasses, the duty was greatly increased. On the Mediterranean articles they were, many of them, raised as high as 150 per cent.; iron, hemp, and duck, were enormously increased; some duck even as high as 500 per cent. The merchants importing under these circumstances must have been subjected to very heavy losses, and he thought, with the Senator from Pennsylvania, that sheer justice required that they should be remunerated. Mr. S. repeated that he had no objections to a postponement, if the object was to obtain more information, and he would give his vote to recommit the bill.

Mr. KANE, after a few remarks which were very indistinctly heard, wished the bill to be recommitted, not only to gratify the honorable Senator from Missouri, but also to call the attention of the committee more particularly to the provisions of the bill. Mr. K. then asked for the yeas and nays.

Mr. BENTON replied that he was aware that this bill had several times passed through the Senate with but little opposition on his part; and he would give the reason for it. He seldom addressed the Senate on questions of commerce or finance. During the fourteen years he had been a Senator, he had observed (he meant no offence to any one by the remark) that the gentlemen from the seaboard considered that they alone were qualified to judge on commercial affairs; and that it was a work of supererogation from one from the West to attempt to enlighten the Senate on such subjects. Again, it was well known that there was always a calculation of what effect a Senator's vote on a money bill, preventing a single miserable dollar from going to his section of the country, would produce on his future political prospects. It would be stereotyped in a column as long as his arm, and brought out against him on the occasion of every election for the balance of his life. He had felt this himself, and had no doubt it was the case with other gentlemen. Thus the firmness of a legislator was put to the test. But this bill, it had been remarked by the Senator from Massachusetts, had passed two or three times. In reply to this, he would say that it had been well remarked, by the soundest statesmen, that those bills were the most dangerous which passed with the most rapidity and with the least discussion. For example, was there a member present who did not feel mortified when he reflected on the heedless speed with which a bill was hurried through, by which two individuals of this city were authorized to call on the Treasury to an unlimited extent? Yes, it has been considered a plume in the cap of a high public functionary, that he

has determined, on his own responsibility, to arrest that expenditure at four hundred and fifty thousand dollars, when we, sir, (the Senate,) never dreamed, when we passed the law, that we were going to expend ten thousand. Look, said Mr. B., at the monstrous amount of your expenditures for pensions. Who ever dreamed of paying the tithe of what we now annually expend? You have an army, said he, on paper, of revolutionary pensioners alive now, after the lapse of half a century, more than Washington ever saw. With respect to the observation of the Senator from Pennsylvania, [Mr. BUCHANAN,] he concurred with him as to their justice, though he did not agree with him as to their application. He did not know whether the gentleman was a member of the other House when the tariff of 1828 was passed; or, if so, how he voted on that occasion; or whether he then used the arguments that he has used to-day.

[Mr. BUCHANAN said he did not remember how he voted on that occasion, or whether he addressed the House on the subject—that is, to prolong the time for the bill's going into effect.]

Mr. BENTON said he well remembered how he himself had voted, and that his vote had been influenced by the same arguments as those to-day used by the Senator from Pennsylvania. He voted for the longest time, and gentlemen who were now on the other side voted for the shortest time.

We, said Mr. B., used the same arguments then that they use now. There was one continued struggle by himself, and those with whom he acted, to prolong the time; for they viewed the law in the same light that they did those of the despot, which were written in so small a character, and on so high a pillar, that no one could read them. He knew that that leading principle in the Justinian code, and in the code of Napoleon, which requires that the law shall take effect after the lapse of a sufficient time for all to have notice of its passage, was again and again urged on them. The gentleman from Massachusetts was right in saying that goods fell after the passage of the tariff of 1828. He (Mr. B.) remembered being at St. Louis, and he almost thought he was in Holland, when the order came there to the colonel of the regiment of infantry at that post to march them to the Canada line to prevent smuggling. It was predicted, when the law was passed, that smuggling to an enormous amount would be the consequence of it; and the order to the regiment of infantry was an acknowledgment of the justice of the prediction.

Mr. B. said, as there seemed to be a general consent in the Senate for the recommitment of the bill, he would withdraw the motion for the yeas and nays.

Mr. WEBSTER rose to make a few remarks, before the bill should be recommitted. He was not bound to answer for the consistency of the vote given by members in 1828 and the vote on the present bill. He desired it to be understood that neither himself, nor any member of the Committee on Finance, nor any Senator who had supported this bill, had advocated any thing that they did not sanction and sustain by their votes in 1828. It was due to the Senate of that year again to repeat that, on a fair interpretation of the vote given in 1828, it would be seen that the mistake which occurred in relation to the bill occurred entirely through inadvertence. Early in the session of 1828 the bill passed the House of Representatives, to go into effect on the 30th of June next ensuing. This limitation of time had been attached to successive sections of the bill. An attempt was made by the Senate to change the 30th of June to the 30th of September; the motion did not then prevail. At a subsequent period, however, it did prevail. But the error was this: the words "30th June" were stricken out of the bill, and the words "30th September" substituted in their place, in such cohesion of language that this amendment, which was supposed to affect the whole bill, in fact and in intention affected only particular sections of the bill. The errors, he (Mr. W.) repeated, had been accidental. It was due to the Senate to say this.

Mr. BENTON made a brief explanation, which was not perfectly audible to the reporter. He was understood to say that he had accurately construed the amendment in the bill.

Mr. POINDEXTER asked for a division of the motion, so that the question might first be taken on the motion generally to recommit.

The motion to recommit was then agreed to without a division.

Mr. WEBSTER moved to lay the residue of the motion, embracing the instructions, on the table.

Mr. BIBB expressed a wish to hear from the chairman of the Committee on Finance if it was his intention to inquire of the Secretary as to the amount of money which the bill, in its extended character, would draw from the public treasury.

Mr. WEBSTER replied that, if this information was not already before the committee in the official papers which had been received, application would certainly be made for it.

Mr. BIBB expressed himself to be perfectly satisfied with the explanation.

Mr. WRIGHT then rose to state what he understood to have been already done for the purpose of obtaining the information which was alluded to by the Senator from Kentucky. He had been told that the only call made on the Treasury for this information was from a committee of the House of Representatives. The information was communicated to the committee only; and, not being sent to the House, was not to be found on the files of the House. He had been told, by a member of the committee, that he had made search for the letter of the Secretary on the subject, and that it was not to be found; and the original had been destroyed when the Department was burned down. It appeared, therefore, that the information which the gentleman from Kentucky, the Committee on Finance, and he himself, desired, could only be obtained from the different collectors.

The instructions had gone one step further, and had desired that the call on the Treasury should ask as to the competency of the treasury to meet the appropriation provided by this bill; and, if it was not competent, to state in what manner the means could be obtained. He knew not what amount of money would be required, whether a million or a million and a half. But he thought that, if the bill was to be recommitted to the Committee on Finance, inquiry should be made upon these points.

Mr. WEBSTER, in explanation, said that he presumed the gentleman from New York saw no reason to doubt that the Committee on Finance would make every inquiry which a sense of duty could suggest.

[Mr. WRIGHT. Certainly not.]

Mr. WEBSTER resumed: The main reason why he desired the bill to be sent back to the Committee on Finance, unembarrassed by any instructions, was this: that when instructions were sent to a committee, it raised a parliamentary doubt whether the committee could, afterwards, exercise the power to amend any provision of the bill. He wished to avoid being placed in this situation. Another reason was, that a portion of the claims rested on the ground of clear right; and, if so, it required no information as to amount to justify their allowance.

Mr. WRIGHT said he was very well satisfied.

The motion was then agreed to, and the instructions were laid on the table.

FRENCH SPOLIATIONS.

The Senate then proceeded to the special order of the day, being the bill concerning French spoliations previous to 1800.

Mr. ROBBINS rose and addressed the Senate as follows:

When the grounds of these claims are clearly understood, for which this appropriation is proposed to be made, I should think there would remain no unwillingness to make it; indeed, that our regret would be that this act of justice had been so long deferred.

I am not unaware that this long delay has been supposed to be, and urged by some as an argument against these claims. But let it be remembered that, through all this length of time, with the exception of some intervals, these petitioners have been before Congress, praying indemnity for these claims. The delay of justice, then, if justice has been delayed, does not lie at their doors. And on the part of Government, I hope it will not be contended that a *bona fide* debt is paid, because the payment has been delayed for any no matter what length of time.

But let me here remark, that the honorable gentleman from New Hampshire [Mr. HILL] is mistaken when he represents that nothing favorable to these claims had taken place in Congress, prior to 1826. As early as the 15th of March, 1802, the House of Representatives had before them a resolution expressed in these words:

"*Resolved*, That it is proper to make provision by law towards indemnifying the merchants of the United States for losses sustained by them from French spoliations; the claims for which losses have been renounced by the final ratification of the convention with France, as published by proclamation of the President of the United States."

A motion to postpone this resolution was made, but it was overruled by a vote of fifty-four to thirty-three. On the 22d of April following, Mr. Giles, as chairman of the committee, made a report upon this resolution, in which he reported facts without reporting any opinion. It does not appear by the journal that any thing further was done upon the subject at that session; and it fell of course with the unfinished business.

On the 31st of January, 1822, Mr. Russel, as chairman of the committee of the House of Representatives, reported on these claims; and decidedly in their favor.

But why has not the gentleman told us, as the fact is, that, from 1802 down to the present time, there have been thirteen different reports made upon these claims, by successive committees of the one House and the other; and out of this whole number but three unfavorable reports have been made; that nine of the others have been in favor of the claims; and that one, as I stated, reported facts without reporting any opinion.

But dismissing this topic, introduced, I presume, to excite our prejudices against these claims, (for certainly it is not material to their merits,) let us now proceed to the consideration of those merits.

Is, then, this a *bona fide* debt, due from this Government to these petitioners?

Three-fourths of the claims of these petitioners are for vessels and cargoes condemned by the tribunals of France merely for the want of a role d'equipage; a document made necessary by a decree of their National Assembly—a decree passed for no other purpose than to give to those tribunals a warrant for these condemnations. The role d'equipage was to be a list of the crew made out in the particular form prescribed by the decree itself. Now, this decree was wholly arbitrary; and it was in direct violation of our treaties then subsisting with France, which had prescribed the documents which our vessels should carry, as the evidence of their nationality, and which did not prescribe this document. It was also in direct violation of the laws of nations, which repudiates any such ground for the condemnation of neutral property. Ten millions of *bona fide* American property, it is computed, was seized and confiscated under this arbitrary decree.

The other fourth part of these claims is for vessels and cargoes condemned under other decrees, equally arbitrary, equally unjust. Decrees, for instance, that made a neutral vessel, if destined to an enemy's port, liable to seizure and condemnation, and even to conflagration on the high seas; decrees, too, that made the having on board a neutral vessel a supercargo, if born in England, though naturalized in the United States, a cause of condemnation.

France hereself, however, let it be remembered, never pretended to justify these high-handed proceedings on the ground of right. She did indeed attempt to defend them on the ground of the necessity created upon her by her enemy; attempting, as that enemy then was, to reduce her by cutting off all foreign supplies, and by famine, but there never has been a moment, not even in the highest phrenzy of her revolution, in which she denied her liability for the property thus condemned. In all our negotiations with France, no minister on the part of France ever interposed that defence against these claims. Never denying, but always admitting her liability for these claims, she only interposed a plea of set-off by counter claims; she ever agreed to pay on being paid, and being restored to her treaty rights.

But our Government felt this outrage upon our neutral rights as a national indignity as well as a national injury; and they invited these claimants to put into their hands these claims, in order that the demand for reparation and indemnity should be made a national concern. In pursuance of this invitation, these claims were confided to the hands of Government. Two several missions were instituted and despatched to settle our differences with France; and the instructions in both instances made it a *sine qua non* to any treaty, that these claims should be satisfied; yes, a *sine qua non* to any treaty that these claims should be satisfied.

I do not refer, by name, to the documents on which these statements are predicated, and by which they are warranted; because I presume that Senators have looked into the case, and made themselves acquainted with these documents; and, if so, I trust they have seen, and will recognise the correctness of my statements. (And here I beg leave to observe that, by documents, I mean the authentic and recorded papers of the two Governments, and not the newspaper trash of the day, which the honorable gentleman from New Hampshire [Mr. HILL] has thought proper to introduce into this debate, and other ephemeral productions of the occasion, and which passed away with the occasion, and have gone into oblivion.) And because most of these documents have been particularly referred to by the honorable gentleman from Maine, [Mr. SHEPLEY,] with the appropriate comments; and to refer to them again would be a needless waste of the Senate's time. And I further beg to appeal to these documents, as my vouchers, for the further statements which I am going to make; desiring so much credit, and only so much, as they will entitle me to.

Now these claims to indemnity, asserted by our Government to be just, admitted by the French Government to be just, were by treaty released to France by our Government for great and valuable considerations.

In the first place, in consideration of the release by France to the United States from the guarantee contracted by the treaty of alliance, in 1778, and of the abrogation of that treaty, and of the treaty of amity and commerce, and of the consular convention; containing, as they did, other inconvenient and onerous stipulations—

one very onerous—and which I shall have occasion hereafter to mention.

In the second place, in consideration of a release by France to the United States of her claims to indemnity for seizures and condemnation of French vessels and cargoes, made by us in our *quasi* war with France, as it has been called.

Thirdly, in consideration of having immense property released, then under seizure in the French tribunals, but not then condemned.

And lastly, and above all, in consideration of having by a new treaty our vast commerce, as it then was, put on a safe footing; and which was followed by a flood of commercial prosperity without a parallel in this, or, perhaps, in any other country.

All these great and valuable objects, and some of them of incalculable value, were obtained to this country, entirely by the release to France of her responsibility for these claims; and without any other earthly consideration whatever. This release was the whole of the purchase money paid for these objects. A release from the guarantee alone would have been a cheap purchase, at the whole amount of these claims. That guarantee was, by the treaty, a perpetual guarantee; and it was hanging like a millstone to the neck of this country. It exposed us to become a party to every European war to which France should be a party; or to a violation of our treaty obligation to France; or to the making of a full pecuniary indemnity to France for its non-fulfilment.

Feeling its oppressive weight, our Government, to purchase an exoneration from this guarantee, offered to France a war-annuity of two hundred thousand dollars *in perpetuo;* but this France rejected, as wholly inadequate to its value; nor would she define the amount she would accept as an equivalent.

As to the claims of France for account of captures and condemnations of her vessels and prizes, and their cargoes, made by the United States in the *quasi* war before mentioned, including claims for violations of her treaty privilege to the exclusive protection of our ports to her vessels of war, of her privateers, and their prizes, they amounted to many millions; and these many millions were released, as well as the guarantee.

The property then under seizure in the French tribunals, but not then condemned, and which also was released, probably was not less in amount than the whole which had been condemned.

Indeed, as to the value of the arrangement obtained at the sole expense of these petitioners, it was literally incalculable. The great riches of this country, at least the riches which have produced the great riches of this country, I consider as wholly due to this arrangement. It was the spring-head, the fountain-head, of our great and extraordinary commercial prosperity which followed that event. The honorable gentleman from Massachusetts, now in the chair, is now a merchant; he was then a merchant; his experience extends to the whole history of our commerce under the present Government; he knows whether I say this without the authority of facts to warrant me. I would gladly appeal to him, as I would to every other merchant of our country of the like experience, to say whether I am in error in ascribing to our arrangement with France, the origin and impulse given to our great and extraordinary commercial prosperity from that time.

Now, can it be a question whether the release of these claims to France, under these circumstances, and for these considerations, was, or was not, *ipso facto,* an assumption of them by the United States? And whether justice requires that they should be paid by the United States? It would seem to me to be an affront to that natural sense of justice which is common to all men, to undertake, by a formal argument, to prove a moral proposition, which proves itself to every moral mind; and such this proposition obviously is. What! can my property be taken by my trustee and agent, and applied to his own use, and he not be responsible to me for that property? Who has ever said this? Who ever will say it, speaking on the forum of conscience?

These great and incalculable benefits to the whole country were obtained at the sole cost of these claims. Who will say that it would be right that a few citizens, comparatively, should bear the whole cost of these acquisitions made for the whole country? But even if they were willing to do this, and offered to do it, would it be proper, would it comport with the dignity of the country to permit such a thing to be done? Would she not say to them, in that spirit of magnanimity which gives character, and by which character is ennobled: "I have obtained great and incalculable benefits to myself, by means of your property, intrusted to my hands at my request; but I cannot consent to owe these benefits to your bounty, nor to hold them as a gratuity at your hands. You must permit me to reimburse the property belonging to you, but which I have appropriated to my own use. Nor will I slander your claims for the purpose of depreciating and reducing your indemnity; still less will I higgle with you about the contingent value of your claims, by speculations upon the character of your debtor, and your chances of recovery as against him. It is enough for me that your claims have been paid to me by your debtor, and to my satisfaction. Here is your indemnity, take it; your complete indemnity."

If, in such a case, such should be her language, what ought it to be in this case, when these few citizens appeal to her justice, and ask that their property, taken for the public use, should be reimbursed from the public purse? Are we, who are that country, to be deaf to that appeal, especially when we remember that justice always is the true, as it always ought to be the standing policy of all Governments, and especially of free Governments; that there is no security like it for their peace and stability, that it is the great source of their respectability in the eyes of foreign nations; that it is the great ligament that binds the Government to the hearts of the people; that virtue is conservative in its nature; that it has in it, and carries with it, the principle of immortal life; that vice, on the contrary, is corruptive, and tends, by its own nature, to produce dissolution and death; that ethics have their eternal truth in the necessary relation of things, and bear upon the destinies of States, as well as upon those of individuals.

But various objections have been made to these claims; some now, and others on former occasions: some of them specious and plausible on the first appearance; but none of them, on examination, I trust, will be found to have in them any intrinsic difficulty. Most of them go to the claims in toto, and some of them to the claims as set up; that is, to the principle of a full indemnity. Such of them as appear to me to call for notice I will endeavor to notice; and the others I shall beg leave to pass over in silence. Such, for instance, as that of the honorable gentleman from New Hampshire, [Mr. HILL,] who tells us, that our merchants, whose vessels and cargoes were condemned, may still go to France for their indemnity; and various others from the same quarter, all equally well founded.

I include in this class one which the gentleman has borrowed, I presume to increase his original stock. It would be respectable, if the quarter in which it originated, and from whence it was borrowed, could make it so; but unfortunately it is one which no name can make respectable. It is this: that the vessels and cargoes so condemned were ensured, in whole or in part; and that so far the ensurers now stand in the shoes of the original

owners. As if the *bona fide* owner of property by legal assignment was not as much the owner as the assigner had been; and as if he did not succeed to all the legal rights of the assigner. Or, as if the fact of ensurance would make it right in the French Government to condemn those vessels and cargoes; or, if not, and they had paid for them to our Government, would make it right in our Government to retain the money to themselves, and to their own use.

But to proceed to the objections to be noticed, and to the explanations to be given.

It has been suggested that indemnity to these claimants, if indemnity is to be awarded, is to be estimated by the contingent value of these claims as against France herself; and upon the calculation of the chances for and against their being paid by France. Pray, having deprived these claimants of these chances, without their consent, and for our own benefit, what right have we to determine for ourselves the value of these chances, and arbitrarily to put them at a discount, and at what discount we please? But if we had this right, what standard can we have for this mode of liquidation? France certainly has always had the ability to pay. She never has denied her obligation to pay. Will you make, then, your opinion of her sense of national honor and good faith the scale of calculations on these chances, and for the liquidation of these claims? Will you undertake to fix a price current to the national faith of France, and the rate of its discount in the market of the world? Will you say that its discount shall be so much, or so much, twenty-five per cent., or fifty, or seventy-five, from its par value? This, indeed, would be a curious business for the national Legislature to be engaged in, and in the face of the world, and while settling such a claim as this is with our own citizens.

Have not these claimants a right to say to us:

"We had so much property in the hands of France; we had a just claim to indemnity for this property; a claim acknowledged by France to be just; asserted by yourselves to be just; France, in a settlement with you, has paid to you the full amount of that claim—now, what right have you to say to us that we are not entitled to the full amount of that claim, when you have received the full amount? or what you considered as an equivalent to the full amount? You ask us to settle these claims at a discount—pray, were they paid to you at a discount?"

Suppose we were before some judicial tribunal; we as defendants, and these claimants as plaintiffs, litigating this question. Should we dare to admit that we had received payment in full of the plaintiffs' claim, as their trustee and agent, from their debtor; and yet contend that we were not accountable to the plaintiffs for that amount? and upon the suggestion that the plaintiffs themselves, and by themselves, might never have recovered the claim of their debtor? Or, if we had the hardihood to contend this, would that tribunal hear us allege the bad credit, or the bad faith, or the bad any thing else, of France, as an excuse for not paying this claim to these claimants which France had paid to us? Might this tribunal not say to us:

"Gentlemen, we cannot exactly see why you calumniate the justice of France; you have only to do to these claimants the same justice which France has done for them; and they ask no more; you have only to pay to them the claim which France has paid to you for them. Does it not occur to you that you are defending, in yourselves, the same injustice which you impute to France, but which you yourselves admit France has not committed? In throwing out calumnies, perhaps it would be well enough to see that they be not such as will rebound, and strike yourselves."

Who will say that this rebuke by this tribunal would be improper, and not merited?

Will it now be said, in answer to this, that what we have received for these claims is not equivalent to their amount? This has been said; and, moreover, it has been said, and is now attempted to be proved by argument, that we have received no value whatever for the surrender of these claims. This is, indeed, the real battle-ground of the opponents to this bill; for all their objections, which have any the least plausibility in them, terminate in this ground. As this is so, I hope the indulgence of the Senate, if I should dwell at some length on this ground, and though at the expense of some unavoidable repetitions.

In the first place, then, I say that we are precluded from saying that we have not received value for these claims, and adequate value, too, by the acts and declarations of our own Government. For when Spain claimed to be released from private claims for captures and spoliations, because France had been released from similar claims, our Government said, in reply, (Mr. Jefferson was then President, and Mr. Madison Secretary of State:)

"The claims from which France was released were admitted by France; and the release was for a valuable consideration, in a correspondent release of the United States from certain claims on them."

These are the very words of our Government in that reply. The claims were admitted by France, and the release was for a valuable consideration in a correspondent release.

Again: all our negotiations with France, and our final agreement with her, consummated by treaty, suppose and go upon the ground of mutual claims and mutual releases, for reciprocal and adequate considerations to each party.

But if we were to waive all this, and go to facts, what we have received for these claims, not equivalent to their amount! Why, if the value of what we have received was to be the measure of what we are to pay, for one, I should shudder at the result against our treasury. In my opinion it would exhaust our revenues for years to come. True, it is difficult to estimate and define the amount of that value, but it is easy to see that it must exceed, very far exceed, the amount of these claims.

Of the guarantee I have spoken—of the tremendous consequences it was likely to draw after it to this country—of the high estimate put upon an exoneration from it by our Government—of the still higher estimate put upon its retention by France. Instead, then, of repeating what I then said, I will put this case: Suppose France should now say to us, renew to us this guarantee, and we will pay these claimants to the last cent of every claim, where is the man in this body, or in the councils of this nation, who would accede to the offer? The truth is, no pecuniary consideration to any amount whatever would induce us to reassume the obligation from which the property of these claimants has purchased our release.

But it is said, in answer to this, that we had previously been released from this guarantee; for that the treaty containing it had been declared void by an act of Congress.

But gentlemen who say this should recollect that a treaty cannot be annulled by a declaration for that purpose, made by one of the parties to it, without the assent of the other. They should recollect, too, that our ministers, in our subsequent negotiations with France, admitted this to be so; and that they, as well as the French ministers, considered and treated this act of Congress as a perfect nullity.

Will gentlemen now set up an act against these claims which is not only void in itself, but which their own Government has discarded, and disregarded, as being void, in treating with that very Government against whom it was passed, and was intended to operate?

But, again, it is said further in answer to this, that war abrogates all treaties, and that we had previously been at war with France, and that this guarantee was terminated by that war. Here, too, gentlemen who say this should recollect that war, to have this effect, must be open war; and that this was not an open war. By our constitution, we cannot make open war but by a declaration of war to be made by Congress; and certainly no such declaration was made.

It is true, France might have considered our hostilities as open war, and met them accordingly, if she chose so to consider them; but she did not so consider them. It was expressly stated by the French ministers to our ministers, "that France did not consider herself at war with the United States." These reciprocal hostilities were considered by both parties, as they were denominated to be, a *quasi* war; that is, as what might have terminated in an open war, but which did not so terminate; that extremity being prevented by an amicable agreement between the parties, consummated by a treaty. And that treaty, what was it? Was it a treaty of peace made to terminate a war? No, by no means; no such thing—nothing like it; it contained in its inception a mutual recognition of claims to indemnity for captures and spoliations. Did a treaty of peace, made to terminate a war, ever contain such a stipulation? Never; it finally, in its completion, contained a mutual renunciation of claims to indemnity for captures and spoliations. Did a treaty of peace, made to terminate a war, ever contain such a renunciation? Never; it was, as it professed to be, simply a convention to settle differences between the two Republics; and it is so described in the treaty itself.

The guarantee then was a subsisting guarantee, and but for this new treaty, must still, at this day, have subsisted as a burden upon this country.

By the treaty of alliance, too, France had the exclusive privilege to the protection of our ports to their vessels of war in time of war, to their privateers, and the prizes of both. After our treaty with England in 1794, we deprived, and by that treaty we were obliged to deprive France of this exclusive privilege. This was done *flagrante bello*, and while France was in the actual exercise of this privilege. This treaty privilege was to continue twelve years; and, as it turned out, these twelve years, with short intervals, were twelve years of war. Was it a small matter to be released from the claims growing out of this violation on our part of the treaty of alliance, founded as they were on the forcible privation of a treaty privilege, certainly of great value to France? and, what is worse, on which she would have a right to put her own estimate? As to this estimate, we were at the mercy of France. From these great and these vexatious, because indefinite, claims, we were released by this new treaty, procured at the sole expense of these petitioners.

Again: have we forgotten, especially those of us who are old enough to remember, the captures of French vessels of war and privateers, and their prize cargoes, and their condemnations by our courts, under our own acts of legislation, by which they were authorized, in the *quasi* war so often mentioned? France claimed indemnity for the property so captured and condemned; and our commissioners admitted the legitimacy of the claim on a final settlement with France by treaty. These captures were numerous, mostly they were valuable, and some of them of very great value. In one instance, the sales of one capture amounted to six hundred thousand dollars. In Rhode Island alone, I believe, the condemnations were not less than a million of property; but, owing to our mode of settlement with France, we have not the means before us of knowing the aggregate amount of these claims; we have no reason to doubt, however, it would have been very great, probably not much less han the whole amount of this appropriation.

Again: the property that was then under arrest by the French tribunals, but not then condemned, is not that to be taken into the account? Our commissioners, in their correspondence with our Government, alluded to this consideration as one of the most urgent nature, from the critical situation of this property, and from the immensity of its amount. Its confiscation would have gone far towards giving a finale to the further prosecution of our foreign commerce. Now, these claims were the *jettison* by which this immense property was rescued from destruction, and by which the total wreck of our foreign commerce was prevented. Who will say that the loss of the property sacrificed to save immense property to our merchants from confiscation, and to save the foreign commerce of the country from extinction, and by which both were saved, shall be borne alone by the owners of the property so sacrificed? Who will say that these objects were no value received, or not adequate value received for these claims? Have not this body of citizens, these petitioners, a right to say to us, "*credite me;* not, indeed, *Lesbos et Tenedos*, and the others of the twelve cities of Apollo; but *credite me*, the immense property rescued from the fangs of the French revolutionary tribunals? *Credite me*, the rich harvests for years of the most prosperous commerce that this country ever enjoyed, or perhaps any other."

Now, when we look to this long array of considerations, to their several and to their aggregate magnitude, all of which were received by us solely by releasing to France her responsibility for the claims of these petitioners, who can say that what was received by us was not a full equivalent for these claims, even to the last cent of every claim? and that the claimants are not entitled to receive their indemnity accordingly?

The indemnity proposed by the bill is $5,000,000; with this, I understand the claimants will be content. I am persuaded it will not much exceed one-third of the claims released, and of which they have now been deprived for more than thirty years. Can this pittance of indemnity be denied to them? Your votes must determine.

When Mr. ROBBINS had concluded, on motion of Mr. KNIGHT,

The Senate adjourned.

TUESDAY, JANUARY 6.

FRENCH RELATIONS.

Mr. CLAY, from the Committee on Foreign Relations, to which had been referred that part of the President's message, appertaining to our relations with France, made a report, which concluded by a resolution, "That it is inexpedient at this time to pass any law vesting in the President authority for making reprisals upon French property, in the contingency of provision not being made for paying to the United States the indemnity stipulated by the treaty of 1831, during the present session of the French Chambers."

Mr. CLAY then said that he should propose to make this report and resolution the special order for as early a day as might be agreeable to the Senate. He would say this day week. He then moved that the report be made the special order for this day week, and printed.

Mr. TALLMADGE rose and said that he concurred in many of the views conveyed in the report; there were others, however, from which he dissented. He had no doubt that the treaty was of binding obligation on France; and the refusal of the Chambers to make an appropriation to carry it into effect was a violation of the implied faith of nations. He could not concur with the report in its views of the supposed effect of Mr. Rives's correspondence on the deliberations of the Deputies.

He had no doubt as to the right of Congress to act upon the subject at the present moment in the manner recommended by the President. With the full knowledge that the French Chambers would convene much earlier than was supposed by the President when he sent in his message, it would have been better that the committee had postponed their report, and awaited the further action of France in relation to the treaty. Such had been his desire. He thought that if the report were made the order for this day two weeks it would be sufficiently early.

Mr. CLAY replied that it was very true that the report did not meet with entire concurrence in the committee, nor did the resolution with which it concluded. But, as had been very properly remarked by the Senator from New York, this was not the time to enter into that question, or to discuss the merits of the report. The only question now to be considered, was that of designating a proper day for making the report and resolution a special order. He was of the opinion that the sooner Congress expressed its opinions on the subject of our relations with France, and particularly as to the recommendations in the President's message, as well on account of the commercial interests of our citizens and the premiums of ensurance, as the amicable relations which have so long subsisted between the two countries, the better it would be for all parties. He was also of opinion that if Congress should not determine on authorizing reprisals against France, as recommended by the President, the sooner it was known on the other side of the water the better. He could not know, nor could any human being foresee, what would be the effect of the President's message when it should be known in France; or what France might do when she heard of this threat to make reprisals. If she chooses, said Mr. C., to fall into a passion at once, she might do this, or that, but he would say that it would not be the most prudent course for her to pursue; but if she listened to the dictates of prudence, she would wait until she saw what would be done by Congress towards carrying out the views of the President.

It was with these impressions that he (Mr. C.) was of the opinion that it was the duty of the committee to report without delay, and to recommend to the Senate as early a day as possible for the consideration of the report. He did not know that there would be any discussion on the report. We (the committee) are for doing nothing, at least for the present. If the gentleman [Mr. TALLMADGE] or his friends contemplated proposing any affirmative measure—any immediate action of Congress—there would undoubtedly be a discussion. But be this as it may, he felt it his duty to resist a further postponement of the order of the day than the one he had named. He did not apprehend any delay of the printing of the documents. He would engage that the printers would have them on the tables of the members in two or three days at the farthest.

The motion of Mr. CLAY, to make the report and resolution the order of the day for this day week, was then adopted, and the papers were ordered to be printed.

Mr. POINDEXTER then moved that twenty thousand extra copies of the report and resolution be printed.

Mr. CLAY said he would suggest five thousand, thinking the number moved by the Senator from Mississippi too large to be distributed.

Mr. POINDEXTER considered this question one of the most important that now agitated the country, and it was most desirable that the views entertained by this enlightened committee should be as widely disseminated as possible. He therefore was of opinion that the number proposed by the honorable chairman was not sufficient. Though the report would undoubtedly be spread upon most of the public journals, still it would be in a garbled form. The Post Office report was one of great importance; but, for his own part, he thought this one was of much more importance; and he thought that twenty thousand copies were as few as ought to be printed.

Mr. CALHOUN said he should vote for the largest number proposed. He had heard the report read with the greatest pleasure. It contained the whole grounds which ought to be laid before the people, that every one might judge for himself. He desired that every thing connected with this important subject should be laid before the nation. Of all calamities that could fall on this country, he should consider a French war, at this time, and on this question, the greatest and the most to be deplored. Under these considerations, he should vote for twenty thousand copies.

Mr. EWING stated that he should vote for twenty thousand copies, as the document was one of the highest importance, and the number was not too large for distribution.

Mr. PORTER said he should also vote for the largest number named, coming, as he did, from a State which felt particularly interested in the question. He was extremely desirous that his constituents should be put in full possession of all the information relative to this very important matter. There could be no doubt that, unless the French Government carried the treaty into effect shortly, France and the United States would be gradually drifting into a position in which it would require all the circumspection and forbearance of both nations to prevent those results which would be greatly to be regretted. We sympathized as we ought to do with public opinion, and it was right that it should be sounded. And, in order to effect that purpose, it was proper that the people should have correct and full information laid before them. The honorable Senator from Mississippi was perfectly correct when he stated that a great many persons do not take newspapers, and those who did would not pay that attention to them that they would to any thing in pamphlet form. It was only in the large papers that such a report as this could appear in full; for in the small ones room could not be found to give place to the whole document, the editors of which would be compelled to give extracts only, and in doing so they would be biased by the political opinions they entertain. He should vote for twenty thousand, though he should have preferred thirty or forty thousand copies.

Mr. HILL asked the ayes and noes; which were ordered.

Mr. CLAY said he should yield to the suggestions of his friends, and vote the larger number.

Mr. LEIGH said he should vote against the larger number, solely because he entertained the opinion that, if twenty thousand copies were ordered, they could not be printed and distributed in less than four months.

Mr. PRESTON said he most heartily concurred in the views thrown out in this report, as far as he could collect them from the mere reading. From what he heard, he was of opinion that the document should be as widely disseminated as possible. We ought unquestionably to avoid going to war, with any nation, by all honorable means; and he was more disposed to avoid a war with France than with any other Power. He was strongly impressed by the views taken by the committee, and considered them sufficient to satisfy the people, as at present advised, that we can honorably and justly avoid war with France; that there was no present occasion for hostilities, or for those measures which would necessarily involve a state of war. He concurred most fully in the reasonable conclusion to which the committee had come, not to act on a contingency which might occur or not, but to look to the state of things as they

actually exist at present. He would not anticipate events which, if they unfortunately occurred, might place the country in a condition in which she might be compelled to adopt an attitude of hostility. Whether we were brought into that condition in consequence of a misconception of the Executive as to the true policy of the country, or by the exercise of the constitutional power which the Chamber of Deputies possessed to refuse an appropriation, it would be our duty to bring to the cause whatever of energy and patriotism we possessed, to defend the honor and the rights of the country, whoever may be the opponent, and whatsoever the risk.

Concurring as he did in the sentiments of the committee, and professing his profound respect for the wisdom exhibited in the report, he was anxious that the document should be spread through the country as widely as possible. But the largest number proposed would be more than Senators would be able to distribute. Thinking so highly of the report as he did, he would not have voted against the large number without this explanation. Extracts would be published in the different papers, garbled to suit party views, and he would be glad if the honorable Senator would modify his motion so as to make it ten or fifteen thousand.

Mr. EWING hoped the honorable gentleman from Virginia would be satisfied when he told him that the printer would get the report out in two or three days, and have the whole twenty thousand printed in two weeks.

Mr. WRIGHT should vote against printing twenty thousand copies, not because he entertained any doubt that the report would not be read, for it was a document which would go more rapidly through the country than perhaps any other that had been printed for some time past. He was not ready to admit that any considerable portion of the citizens of this country were out of the reach of information in reference to measures of this importance, and about which the feeling of the country must be anxious until it receives the documents from us.

He should vote against the larger number, for the cause assigned by the gentleman from Virginia, [Mr. LEIGH.] He knew, by experience, that when a large number of copies had been ordered of any document, it came to that section of the country in which he lived so old that the information it contained was not then sought after, and he could not dispose of the document. It was, indeed, entirely useless, and the public expense for that object was without utility. He had remarked, with some mortification to himself, that the printing account of the Senate, for the last year, was very large; and it convinced him that there was a manifest inutility in ordering such large numbers. Why, the Post Office report did not reach (the whole number to which he was entitled as a member of the Senate) him until the 1st of October. And at this period he got many replies from his constituents, stating that they had already seen the information which he had just communicated to them. This document was one which would be vastly interesting to every citizen of the country; but still he was of opinion that the usual extra number of five thousand copies would be sufficient.

Mr. PORTER and Mr. EWING explained as to the facility with which extra copies might be disposed of.

Mr. POINDEXTER observed that it would give him great pleasure to concur with his friend from South Carolina, [Mr. PRESTON,] but he did not think that the labor of distribution would be so great as that intimated by him. There was another view of the question, of great importance, which should be well weighed and considered. In all questions relating to peace and war, the judgment of the people of this country ought to be given before they were decided. If one department of the Government should differ from another on such important questions, the people should be well informed as to the causes of this difference, in order that their sentiments on the subject may be distinctly ascertained. If, said Mr. P., we have the sensibilities and sympathies of the people with us, in case of a controversy with a foreign Power, all will go well; but if we are not sustained by them, we should not carry on the contest so happily. He was for putting the people in possession of the fullest information on this all-important subject, for the purpose of obtaining their solemn decision as to the difference between the President and the committee of this House. The message of the President had been widely disseminated, and it was due to the people that the contrary views of the Committee on Foreign Relations should also as fully be displayed to them.

Mr. WRIGHT inquired of the gentleman from Mississippi if he recollected what number of copies of the President's message had been ordered to be printed by the Senate.

Mr. POINDEXTER said he had not spoken as to the number of the messages printed, because every member had had it in his power to obtain as many copies as he wanted. He did not deem the question of the gentleman from New York had any weight to vary the question before the Senate.

Mr. BIBB admitted that this document was one of great importance to the people, and therefore should be widely disseminated, not only in this country, but also across the water. He trusted that many copies would find their way into the Chamber of Deputies. He would wish that every member of the State Legislatures might have a copy, and he could dispose of one hundred in that way among the members of the Kentucky Legislature.

The question was then taken, and decided as follows:

YEAS—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kent, Knight, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tipton, Tomlinson, Waggaman, Webster—23.

NAYS—Messrs. Benton, Black, Brown, Buchanan, Grundy, Hill, Kane, King of Georgia, Leigh, Linn, McKean, Morris, Preston, Robinson, Shepley, Tallmadge, Tyler, White, Wright—19.

MAPS OF THE PUBLIC LANDS.

The resolution submitted yesterday by Mr. WRIGHT was taken up for consideration:

Resolved, That the Secretary of the Treasury be requested to report to the Senate the progress which has been made in his Department under the resolution of the Senate of the 28th of February, 1823, directing to be prepared and laid before the Senate maps of the several States of Ohio, Indiana, Illinois, Mississippi, Alabama, and Louisiana, and of the Territories of Michigan, Arkansas, and Florida; whether the said maps, or any number of them, have been completed according to the directions of the said resolution; what is the state of advancement upon such of the said maps as have not been completed; whether the means are in the possession of the Department to complete the said maps; and whether any of the said maps heretofore completed and laid before the Senate have since been posted up, so as to conform to the existing condition of the public lands; and to what date each map has been so posted up.

And Mr. WRIGHT having submitted the following amendment, it was agreed to; and the resolution, as amended, was adopted:

"And also to report the names of the several persons who have been employed by the Department as draughtsmen upon the said maps; the dates from which to which each person has been so employed; and the rates of wages, and the amounts paid to each, respectively, for such services."

EXECUTIVE PATRONAGE.

The following resolution, offered yesterday by Mr. CALHOUN was taken up and adopted:

Resolved, That a select committee be appointed to inquire into the extent of executive patronage; the circumstances which have contributed to its great increase of late; the expediency and practicability of reducing the same, and the means of such reduction; and that they have leave to report by bill or otherwise.

On motion of Mr. CALHOUN, it was ordered that the committee consist of six.

Mr. C. wished that the committee might consist of two members from each of the political parties; for it is well known, said Mr. C., that there are different political interests in the Senate. That when he considered the extent of executive patronage and influence, and its important effect upon our future prospects, he wished to go into its consideration free from all prejudices, and to give it an impartial consideration. He wished the committee might be immediately appointed.

Mr. POINDEXTER proposed that the election of the committee would be postponed until to-morrow morning.

Mr. CALHOUN objected;

And so the Senate proceeded to ballot for the committee, when Messrs. CALHOUN, SOUTHARD, BIBB, WEBSTER, BENTON, and KING of Georgia, were elected.

OHIO BOUNDARY LINE.

Mr. CLAYTON moved that the bill to settle and establish the northern boundary line of the State of Ohio be now taken up for consideration.

The motion having been carried,

Mr. CLAYTON spoke in favor of the bill. He entered into an elaborate discussion of the three following questions: 1st. Whether the northern boundary line of the State of Ohio is already defined by the convention on which Ohio became a member of the Union, or by the act of cession made by Virginia of the lands which now constitute that and other States and Territories? 2d. Whether Congress has the power to establish such a boundary line, supposing that it is not accurately defined by those instruments? 3d. Whether, if it be established that Congress has this power, is it not incumbent on that body to settle and establish this line speedily?

In arguing the first question, whether the boundary line is already laid down and defined, Mr. C. went at some length into the history and details of the case. He showed that so unknown was the country in those days, and so imperfect the maps then in existence, that the line mentioned in those acts, and which was to run due east and west from the southern extremity of Lake Michigan, was attended with great difficulties and inconveniences. It was a remarkable fact in this case that the real geographical position of the southern extremity of Lake Michigan was not understood by any of the parties who prescribed this line, and that, consequently, such a line, starting from this unknown spot, did not fall on the point at which it was prescribed that the boundary line should fall and terminate, and it necessarily followed, from this ignorance in the case, that the line established in those instruments was an impossible line; for though it might begin at the southern extremity of Lake Michigan, yet running due east and west it could not possibly fall where it was prescribed in those acts that it should fall. Mr. C. related the singular circumstance, that, at the session of the convention of Ohio, when they were about to close their labors, and imagined they had defined their boundary line, word was brought by an Indian, who had been out in that part beaver trapping, that the extremity of the lake was not so far north as it was supposed to be, or as represented on the maps. Mr. C. then proceeded to point out the anomalies and inconveniences resulting to the State of Ohio and adjacent States in consequence of the imperfection in the drawing of this line. One consequence would be, that the Territory of Wisconsin, as soon as it should number 60,000 inhabitants, would be entitled to come into the Union as a State, on the strength of the population of Illinois, since the originally proposed line would throw a great portion of the population of Illinois into the country of Wisconsin. The act of cession by which the State of Virginia ceded those countries says, (observed Mr. C.,) "that Congress shall establish not less than three, nor more than five, States in the country northwest of the Ohio river—not less than one hundred miles square, nor more than one hundred and fifty."

But, from the causes above mentioned, these States would be most injudiciously constituted, because the lines of demarcation prescribed for them were made without regard to the affinities and dependencies of the country. If that ordinance were to be followed, some of these States would consist half, if not altogether, of water, and would exhibit every possible anomaly and inconvenience of situation.

Mr. C. next proceeded to argue the question, whether Congress had the power to define and establish the northern boundary line. Of this, he observed, no doubt could be entertained, since it is evident that it is not established, and now no other body or power is in existence, except Congress, by whom it can be established. Mr. C. here discussed the legal tenor of the act of cession, and the presumed intentions of that act and of the ordinance, referring to the legal documents relating to the subject.

If, continued he, this view be correct, and the Senate is agreed that Congress possesses the power, then the next question is, of the expediency of establishing the northern boundary line. In support of the expediency and necessity of this measure, Mr. C. showed that, if the line were not settled by Congress, very serious consequences would result to the State of Ohio: the Ohio canal would be turned out of its course, or would be found to have been made by the State in a country over which it had no jurisdiction. An important section of the country would become a subject of contention and dispute if the line be not speedily settled; and surely said Mr. C., it is wise and expedient to do this before the Territory of Michigan is admitted into the Union; for, if the question be left open, and eventually should be brought before the Supreme Court of the United States, it is probable that serious impediments may arise to its final settlement. Michigan will not suffer from the line being settled by Congress, as Ohio claims, and is justified in claiming, that it should be. The Territory of Michigan will not fall short of that of any other State; and also that of Wisconsin will still be left, by the settlement of this line, twice as extensive as the State of Virginia? Having elaborately discussed the questions on the case, and showed—1st, that the boundary line required to be settled; 2dly, that Congress has the power to settle it; and, finally and 3dly, that it is highly expedient and indispensably necessary that it should be settled forthwith, Mr. C. concluded by expressing a hope that the bill would pass.

Mr. HENDRICKS said that he had an amendment to offer to the bill, in relation to the northern boundary of Indiana, with which he would detain the Senate but a very short time, and which he would explain as briefly as possible. He did not propose for Indiana any new boundary, or to include any territory not at present within the limits of the State. Nor did he propose in the amendment any new or additional sanction to the boundaries of that State; for no act of Congress which could be passed, could settle with more certainty her boundaries than they were already settled. All he

proposed was, a declaratory expression of Congress, sanctioning the survey of the northern boundary of that State, made agreeably to an act of Congress authorizing "the President of the United States to ascertain and designate the northern boundary of the State of Indiana." That boundary, said Mr. H., is fully and certainly described in the act of April, 1816, authorizing the people of the Indiana Territory to form for themselves a constitution and State Government. In that act, the northern boundary was declared to be "an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan," until the same shall intersect the meridian line which forms the western boundary of the State of Ohio. The convention which formed the constitution of the State of Indiana, on the subject of boundary, pursued the letter of the law referred to, and incorporated the same language in the constitution of that State. The 17th section of the 11th article, said Mr. H., reads as follows:

"In order that the boundaries of the State of Indiana may more clearly be known and established, it is hereby ordained and declared that the following shall be, and for ever remain, the boundaries of the said State, to wit: bounded on the east by the meridian line which forms the western boundary of the State of Ohio; on the south by the Ohio river, from the mouth of the Great Miami river to the mouth of the river Wabash; on the west by a line drawn along the middle of the Wabash river, from its mouth to a point where a due north line, drawn from the town of Vincennes, would last touch the northwestern shore of the said Wabash river; and from thence, by a due north line, until the same shall intersect an east and west line, drawn through a point ten miles north of the southern extreme of lake Michigan; on the north by the said east and west line, until the same shall intersect the first-mentioned meridian line which forms the western boundary of the State of Ohio."

The resolution admitting the State of Indiana into the Union, approved 11th December, 1816, declares that the people of the said Territory, in pursuance of the act before recited, did, on the 29th June, in that year, form for themselves a constitution and State Government, which constitution and State Government is republican, and in conformity with the ordinance of 1787. By that resolution the State of Indiana, with the boundaries prescribed for her in the law of 1816, and the boundaries incorporated into her constitution, was admitted into the Union "on an equal footing with the original States, in all respects whatever." The northern boundary, then, is, as I believe, as certainly fixed and established as the southern boundary; and I regret, said Mr. H., that doubts should have existed on the subject. I disclaim all doubts, and dissent from all opinions, that the question of boundary between Indiana and Michigan is an open question, and unsettled. But I have not yet given, said Mr. H., the whole congressional history of this matter. The northern boundary, though well defined, had not, in 1827, been run and marked agreeably to the constitution of the State; and, by act of Congress of the 2d March, 1827, the President of the United was authorized "to ascertain and designate the northern boundary of the State of Indiana." This service was committed to the surveyor general of Ohio, Indiana, and Michigan, who detailed one of his most scientific deputies to perform the work, a report of which was duly returned to the General Land Office, and is now before the Senate. The amendment which I offer declares that the line thus surveyed, marked, and designated, shall ever hereafter be deemed and taken as the line mentioned in the constitution of the State of Indiana, drawn due east and west, through a point ten miles north of the southern extreme of Lake Michigan. It is intended to estop Michigan at a future day from saying or alleging that the line had not been correctly ascertained, and to put forever at rest questions of jurisdiction along the boundary. Michigan, indeed, claims to come south to an east and west line drawn through the southern extreme of Lake Michigan, and denies that the acts of Congress, providing for the admission of the States of Indiana and Illinois into the Union, ought to have any influence whatever in establishing the construction of the 5th article of the ordinance of 1787, because those acts were passed before Michigan was represented in Congress, and before that Territory had a Legislative Council, or any other means through which the people there could call the attention of Congress to the fact that those acts were infringements on their rights. The Delegate from that Territory has further been pleased to say, that "the true northern boundary of the States of Ohio, Indiana, and Illinois, is a line drawn due east and west, through the southern extreme of Lake Michigan; and all acts and parts of acts of Congress, or of either of those States, so far as they do or may conflict with this boundary, are, and must be, null and void." And what is this ordinance which gives these rights to Michigan, and authorizes this tone in her Delegate and Legislative Council? It simply provides that the boundaries of the three States based on the Ohio river, and which were originally intended to run northwardly to the territorial line of the United States, should "be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said Territory which lies north of an east and west line drawn through the southern bend or extreme of Lake Michigan." Now, what disinterested man, on reading this ordinance, would come to the conclusion that Michigan had rights which set the legislation of Congress at defiance, and prohibited the location of the boundaries of any or all of those States north of the southern extreme of Lake Michigan. Congress is indeed prohibited from coming, with the northern boundaries of these three States, south of this east and west line, but she may go as far north of that line as shall be deemed expedient, even to the boundary of the United States. Congress has not yet established more than three States, and may yet exercise her pleasure on the subject. A law of Congress still exists, making it obligatory on Ohio, if such shall be the pleasure of Congress, to attach to that State all the territory north of her; and this understanding with the States of Indiana and Illinois, would yet merge Michigan, with all her pretensions, in the three States originally contemplated; more than which number Congress has not yet declared it expedient to form. Michigan has only been formed into a Territory for the purpose of temporary government.

Michigan is indebted to the States south of her for the territory which gives her existence. The chief portion of this territory, in peninsular Michigan, has been taken from Indiana; and of all the States already formed, or to be formed, in the old Northwestern Territory, Indiana has most reason to complain. In geographical extent, she is less than any other State west of the mountains, and will have little more than half the territory with which Michigan expects to be admitted into the Union; and the State west of Michigan, running north to Lake Superior, and the Lake of the Woods, and west to the Mississippi, will be as large as the three States already formed; so that, in point of size, Michigan has nothing of which to complain. One object which Indiana had in going north of the east and west line, so often mentioned, was, that she might include the mouth of the St. Joseph river, and have a harbor there on the lake. In that she has been defeated. Her northern boundary is near thirty miles south of that harbor; and it would be a proposition at this moment, in my opinion,

entirely reasonable, that her boundary should be thrown so far north as to include Newburyport, and thence to run due east to the meridian which forms her eastern boundary. This proposition, however, I do not make. Indiana will be satisfied with her present boundary, and with her single harbor at the mouth of Trail creek; but this harbor she will expect Congress to improve. It will be of great value to that portion of the State. She will hope, too, to remain in quiet and peaceable possession of her own territory; and with this object in view, (said Mr. H.,) I propose the following amendment as a second section of the bill:

SEC. 2. *And be it further enacted*, That the boundary line, surveyed, marked, and designated, agreeably to "An act to authorize the President of the United States to ascertain and designate the northern boundary of the State of Indiana, approved March 2, 1827," shall be deemed and taken as the east and west line mentioned in the constitution of the State of Indiana, drawn through a point ten miles north of the southern extreme of Lake Michigan, and shall be, and for ever remain, the northern boundary of said State.

The amendment was adopted.

Several other slight amendments to the bill were offered and adopted.

Mr. EWING stated that nearly all the inhabitants of the disputed district had signed a memorial to Congress, asking to be attached to the State of Ohio.

The bill, with the amendments, was reported to the Senate.

Mr. TYLER said he had received information from the Representative from Michigan, which induced him to doubt the justice of the measure proposed by the bill. He had been informed that the object of Ohio was to get a place of depot at the termination of her canal, which was not needed, as the Maumee river, now within her boundaries, was sufficiently navigable. That the boundaries of Ohio were precisely fixed by the act of the admission by which the disputed tract was not included. The first inclination of Mr. T. was to take the side of the weaker party, and he was unwilling that injustice should be done to Michigan.

Mr. EWING denied the correctness of the statements which had been made to Mr. TYLER, and asked why the Delegate from Michigan had not before made these objections, since the subject had been so long before Congress? Mr. E. made some statements which went to show that the disputed tract had already been virtually recognised by Congress as belonging to Ohio.

The various amendments were adopted by the Senate, and the bill was then ordered to a third reading.

The Senate then adjourned.

WEDNESDAY, JAN. 7.

ORATION OF MR. ADAMS.

Mr. CLAY rose to perform a duty which was assigned to him, as chairman of the joint committee on the subject of honoring the memory of Lafayette. He stated that the thanks of the two Houses had been presented to Mr. ADAMS, by order of Congress, his reply to which had been received. The committee had also addressed a letter to Mr. ADAMS, requesting a copy of his oration for publication. The reply to that letter, assenting to the wish of Congress thus communicated, was now before him; and he should move to lay these papers on the table. It was now his duty, and he felt some embarrassment in its performance, to move the printing of the oration. If he were to be guided by his opinion of the great talents of the orator, and the extraordinary merit of the oration, he felt that he should be unable to specify any number. But it was necessary to fix on some number. As the House had ordered 50,000 copies, it would hardly be necessary for the Senate to order as many. In the proportion of the Senate to the House of Representatives, he thought that about 10,000 would be the proper number. He would therefore propose that number, although he should be entirely satisfied with a greater or less number, as the Senate might determine. He concluded with moving that 10,000 copies be printed.

The motion was agreed to.

IMPROVEMENT OF THE WABASH.

The bill for the improvement of the Wabash river was taken up and read a third time. On the question of its passage,

Mr. CLAY said that he could not allow the question to be put without a passing notice of the principles contained in the message of the President, returning the bill passed at the last session, making an appropriation for the improvement of the Wabash. He hoped this bill would pass, and experience from the President a kinder fate than the bill of the last session.

According to the President, the constitution does not authorize, or at least ought to be practically limited, to those improvements in our navigable waters which are calculated to advance the interests of our foreign commerce. He thinks no improvement ought to be made above the highest port of entry. If this be the true meaning of the constitution, our powers do not depend upon the terms or grants of the instrument itself, but upon our previous exercise of another power on a collateral subject. The effect would be to make the constitution a floating machine, impelled not by itself, but by the will of Congress exercised in the establishment of ports of entry.

And what would be the effect of this interpretation or execution of the constitution upon the interests of the interior of the country, by far the greatest portion of it? The great interior of the country would be repudiated, cut off from all the benefits of the constitution in one of its most beneficent provisions. Our internal commerce—the commerce between the different States—would be stript of all advantages from the exercise of a power which it is impossible to show does not equally comprehend that with our foreign commerce. We should apply the power, generally, below tide-water; for ports of entry are generally confined to tide-water, where, from the bounty of nature, it is not essentially necessary; and we should refuse it where its exercise is demanded for the comfort and convenience of the people in the transportation of the products of their industry.

Against such a limited, partial, unequal, and unjust execution of the constitution of the United States, I enter my protest in the most solemn form in which it can be made. It is impossible that the people of this country can ever consent to such a construction of it. It is impossible that they can ever be satisfied with an arbitrary rule, presented, too, not by the Legislative authority, but put forward by Executive will. He had risen for the sole purpose of entering his protest; he should vote with pleasure for the bill.

The question was then taken on the passage of the bill, by yeas and nays, as follows:

YEAS—Messrs. Benton, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kane, Kent, Knight, Linn, McKean, Naudain, Porter, Prentiss, Robbins, Robinson, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Webster—23.

NAYS—Messrs. Bibb, Black, Buchanan, Calhoun, Grundy, Hill, King of Alabama, King of Georgia, Leigh, Mangum, Moore, Morris, Preston, Shepley, Tallmadge, Tyler, White—17.

OHIO BOUNDARY LINE.

The bill to settle the boundary line of the State of

Ohio was read a third time; and, on the question being put, "shall this bill pass,"

Mr. SHEPLEY observed, he wished that some time might be allowed to place certain facts relating to this important measure beyond dispute. The Delegate from Michigan was desirous of being heard as to various allegations from the member from Ohio, which had, he thought, produced erroneous impressions. He moved that the rule be suspended which forbids any stranger appearing on the floor of the House, to admit of the Delegate from Michigan being heard at the bar of the Senate. The nineteenth rule of the House was then read by the Clerk.

Mr. EWING inquired if this motion was in order. He thought not, unless notice had been previously given.

Mr. CALHOUN said that the rule could not be suspended except by the unanimous consent of the House. He moved that the motion be laid on the table, and take the regular course.

Mr. KING, of Alabama, remarked that, at the last session, the Senator from South Carolina was quite outrageous when it was said that the Senate could not suspend its rules at pleasure; they were frequently suspended; whereas, now we are told they cannot be suspended except by unanimous consent.

Mr. CALHOUN conversed in an under tone with Mr. KING, but none of his remarks reached the reporter.

Mr. BIBB said he would determinately resist the introduction of any stranger whatever on the floor of the Senate.

Mr. CLAYTON said that the Delegate for Michigan had been heard for two days successively on this subject before the committee. He had then laid before them all his arguments and statements, and—

The VICE PRESIDENT spoke to order: he begged to remind the honorable Senator that the question before the House was to suspend the 19th rule of the Senate.

Mr. CLAYTON explained. He would not object to receiving more light on the subject.

Mr. POINDEXTER thought that, considering the peculiar situation of the *quasi* representative of Michigan, and that here was a question of the partition of that Territory, a question of the utmost importance to his constituents, indulgence might be extended on this occasion, and the benefit to be derived from his information might be received. He therefore suggested that the bill be suspended for one week, and the Delegate be permitted to submit his statements in writing. He moved that, from these motives, the bill be laid on the table, and called up next week.

Mr. EWING observed, all the facts that could be adduced on this subject had been collected two winters ago: if any gentleman wanted information, he might find it in the printed documents, if he would take the trouble to read them. If the object of the motion was to obtain more light on the subject, he would not object to it; but if procrastination was the object, he would never consent to lay the bill on the table. For many winters past the bill had been brought up, and, on the pretence of bringing forward new facts, had been delayed and lost. There were no new questions that could be raised; there were no new facts of evidence to be adduced. It is true there were such little questions as to the exact depth of certain waters, and such like; but these were questions in statement, not in evidence. If gentlemen are disposed to occupy the time of the House with bringing forward such statements, I am satisfied; the subject has been discussed again and again; but if it is wished to go over these discussions once more, I am satisfied; but, sir, (observed Mr. E.,) one thing I say, that if delay should thus be gained, it will be fatal to the bill, and all our labor will be in vain.

Mr. SHEPLEY said the bill could not be lost by assenting to the motion for a few days to gain more information. It was an important question, that of annexing a large increase of territory to Ohio. He understood there were very important matters of fact in dispute, and not mere statements. He understood a map was now in preparation in New York, which the Delegate desired to lay before the members. By this it would be seen that some serious errors had been made in the views taken from former maps.

Mr. CLAYTON observed, if gentlemen would only take the trouble to turn over their own files of papers, they would find thirty printed pages of arguments and statements brought forward by the Delegate of Michigan. For four entire hours he himself had heard that Delegate establishing and urging his arguments before the committee! The mass of evidence on this subject occupied more than eighty-four pages of printed matter.

Now, as relates to maps, he would beg to observe, that examining and comparing different maps would never settle this question. He believed that Captain Hutchins's map of 1778 was correct; he was appointed geographer to Congress, which is the same office now known as surveyor general; he made a correct map of the Territory. But it was not in evidence that the ordinance was made with reference to this map. The point claimed by Ohio is a line which, striking Miami bay, shall cut Cedar Isle exactly in two; that is the spot Ohio claims for her boundary, and it will be made by a line running due east and west through Lake Michigan. Now, if gentlemen will not give this, they will, if they refer to the maps, find that more than this, more than Ohio claims, will be given by a different line. The only effect upon the decision which maps will have, will be to show that Ohio is entitled to more territory than she is now contending for. This is not properly a question between Ohio and Michigan, but between the United States and Ohio. The gentleman from Virginia [Mr. TYLER] yesterday remarked that he felt disposed to vote for the weaker party. Ohio, then, is the weaker party. It is indispensably necessary to her that she should have the line established, so as not to ruin her canal, by which the waters of Ohio and Miami will be connected together. Now, if this bill does not pass, the effect will be to deprive her of jurisdiction over a great part of her own improvement; and is it fair and just that Ohio should build the house, and, after all her expense and trouble, Michigan should keep the key?

Mr. SHEPLEY still pressed for delay. The person who drew up the ordinance was yet alive, and he thought the intentions of that instrument might be better known by consulting him.

Mr. EWING ridiculed the idea of gaining delay by waiting to consult old Nathan Dane. The convention by which Ohio became a member of the Union inserted a provision that if the boundary line, as described, did not pass exactly through Cedar Isle, in Miami bay, then that line should be the boundary which did pass through that island. With this condition, and under this proviso, Ohio came into the Union, and it must be fulfilled; it cannot, by any principle of law or equity, be set aside; Ohio claims it—it is of vital importance to her. What led to the insertion of this proviso, was the suspicion of a mistake in the maps, suggested by an Indian trapper who had been beaver hunting about the lake. For fifteen years, memorials and counter memorials have been presented on this subject; the passage of the bill has been repeatedly ruined by delays, and now, at last, the gentleman from Maine is desirous of laying the bill on the table, because, forsooth, he thinks he can procure, in ten days time, such information as it has taken fifteen years to gather together and accumulate!

Mr. LEIGH made some remarks deprecating further delay.

Mr. BIBB, adverting to the disputed boundary of Maine, strongly deprecated the creation of a similar controversy between two States of the Union; therefore, before Michigan is admitted as a State, this question ought to be settled, and future and endless litigations be prevented.

Mr. POINDEXTER pressed for time to gain further information; not to throw obstacles in the way of the bill, but that the question may be settled more satisfactorily.

Mr. EWING asked whether the object was to delay the bill, or merely to prevent the Delegate from Michigan from addressing the Senate?

Mr. POINDEXTER said his object was simply that the views of the Delegate from Michigan might be properly stated. He had no seat on the floor of the Senate, and wished for an opportunity of presenting his views, either at the bar of the Senate or in writing; it was unimportant which. Mr. P. wished to postpone the bill for a few days only for this purpose. It might be acted upon on Monday next.

Mr. EWING thought the Delegate did not wish to present his views in writing. He had already written long and much, and it was not possible that he should present any other fact on the argument than what he had done already. Mr. E. did not understand that the Delegate asked for time, and a delay till Monday was likely to lead to further and long-protracted delay.

The motion to lay the bill on the table was decided in the negative.

The bill was passed; and, on motion of Mr. HENDRICKS, its title was altered so as to include the States of Indiana and Illinois.

VACANCIES IN COMMITTEES.

Mr. CLAY said that, in consequence of the resignation of Mr. SPRAGUE, there was a vacancy in the Committee of Foreign Relations, and he moved that the Senate proceed to fill the vacancy, which was agreed to; when, on balloting for the member, Mr. PORTER was elected.

Mr. SILSBEE remarked that, by the same occurrence, there was a vacancy in the Committee on Commerce. He moved that the Senate proceed to fill the same, which was agreed to; when Mr. TOMLINSON was chosen.

FRENCH SPOLIATIONS.

The special order being called by the CHAIR, being the bill to provide for payment of claims for French spoliations prior to 1800—

Mr. TALLMADGE hoped the question would not be taken at that time. He was authorized to state, on behalf of his colleague, that he was, to-day, diligently employed at home, in preparing himself to speak on this subject to-morrow, if it should be the pleasure of the Senate to hear him then.

Mr. WEBSTER said he did not feel authorized in postponing this question. He had heard suggestions from other quarters; and if the Senate postponed taking the question for one member, others would follow, and they might as well surrender the question at once. He felt himself bound to press the Senate on this subject. If there were none to take a part except the gentleman from New York, [Mr. WRIGHT,] he should certainly be willing to give him an opportunity of being heard; but he could not agree to any course which was likely to put off the action of the Senate beyond to-morrow. He hoped that if any other gentleman wished to speak on the subject, he would avail himself of this opportunity. It was now three or four weeks since the subject was introduced, and it was now time that it should be brought to a close.

Mr. TALLMADGE intimated to the honorable Senator from Massachusetts, that he had not purposed to prevent any other gentleman from taking the floor at this time.

Mr. WEBSTER had every disposition to extend the utmost courtesy to the honorable Senator from New York, [Mr. WRIGHT;] but it was his wish that, to-morrow, the bill should be out of the Senate. If he understood that no other gentleman intended to speak, he should give way to the motion.

Mr. POINDEXTER said it was not his intention to take any part in the debate. If no one intended to offer any amendment to the bill, the gentleman from New York could as well deliver his sentiments on this subject after the bill was engrossed, on the question of its passage.

Mr. TALLMADGE believed that his colleague intended to make some objections to the principles of the bill.

Mr. BIBB said that he had not satisfied himself on all the matters contained in the bill. He should like to look further into the merits of it, and to examine the grounds on which the claims rest; for he was under the impression that the bill was so worded as to include a certain description of cases which ought not to have been introduced. He would not say it was so, but that was the notion he at present entertained.

Mr. WEBSTER would be very unwilling to press the question to the inconvenience of any gentleman. This was a judicial question, strictly speaking, and it required caution, and the most scrupulous attention, to which all questions of this grave character were entitled. He should have been glad if the honorable gentleman from Kentucky had had an opportunity of looking into this subject, for he (Mr. W.) would have been glad to have heard his sentiments on it, as he was fully competent to give an accurate opinion. To-morrow, he trusted, the bill would be ordered to be engrossed.

He then withdrew all opposition to the motion to postpone, when the bill was accordingly postponed until to-morrow.

On motion of Mr. BENTON, the Senate proceeded to the consideration of executive business.

After being in executive session some time,

The Senate adjourned.

THURSDAY, JANUARY 8.

FRENCH SPOLIATIONS.

The bill making compensation for French spoliations prior to 1800, being under consideration—

Mr. WRIGHT rose and said he owed to the Senate the expression of his most respectful acknowledgments for the indulgence which had been extended to him in the postponement of this subject from yesterday to this day, and he felt the deepest regret that he was compelled to say, even after this indulgence, that he was but partially prepared to discuss the several topics presented for discussion. He had found these old claims surrounded by such a mass of matter which ought to be read and carefully examined, that, although the bill had been before the Senate a month, and although it was but just to himself to say that he had most industriously employed every hour he could spare from other imperious calls upon his time, he had been able to go through but a portion of the diplomatic correspondence and legislative documents necessary to a full understanding of the whole case. If, therefore, he should be found to take positions not authorized by the facts, or to come to conclusions unsustainable from the whole record, he hoped the Senate and the country would impute his mistakes, not to design, but to want of time to make himself more

fully acquainted with the important matters he was called upon to notice.

Mr. W. said he had not wanted inducements to examine the merits of the bill upon the table with the utmost care. He had been sensible, from the beginning, that a large number of the persons to be benefited by the appropriation were his immediate constituents; that a full share of the money appropriated by the bill was to be distributed to citizens of his own State; that the amount of that appropriation (five millions of dollars) was not unimportant in itself, and might go in many cases, if distributed, to relieve necessities now ill provided for, and in all to add to comforts which a free and industrious people have a right to enjoy.

He said if he had been unmindful of these obligations of a local character, and fully due from himself to his immediate constituents, he had not been permitted to overlook them from forgetfulness. He held in his hand a letter addressed to himself, and signed by a number of most respectable gentlemen of the city of New York, acting in behalf of, and as a committee from, the claimants residing in that State. These gentlemen had urged him to an examination of this subject, with all the earnestness due to its importance, and to their interest in his course, and with all the respect which intelligent citizens will not fail to yield to the obligations of public duty, and to a proper regard to great public interests. They had invoked his support of the bill, provided that support could be yielded consistently with the merits of the claims they represented, and with his sense of his duty to the country; and they had done this with a kindness which appealed strongly to his partialities towards those who had the right thus to call upon him, and to demand his services, as one of their representatives here.

With these feelings, Mr. W. said, he had entered upon the examination of the French claims prior to the 30th of September, 1800, and in the course of that examination he had found another and a stronger appeal to his representative responsibilities; he had found, or thought he had found, the whole body of his immediate constituents, of the taxable inhabitants of his State, warning him not to suffer his feelings towards a few claimants upon the national treasury to carry him so far as to lay the foundations for claims which that treasury could not pay, and which are not well founded, as against them and their properties. He had come to the conclusion that these claims had no foundation, as made against the Government of the United States, unless the mere failure to collect money justly due to our citizens for spoliations upon our commerce from the foreign Government against which the claims are preferred, shall be determined to create that liability. Such a principle he did not suppose any one would attempt to establish, and he therefore did not feel disposed to discuss its utter unsoundness, or its dangerous and ruinous tendencies.

He understood the friends of this bill to put its merits upon the single and distinct ground that the Government of the United States had released France from the payment of the claims for a consideration, passing directly to the benefit of our Government, and fully equal in value to the claims themselves. Mr. W. said he should argue the several questions presented, upon the supposition that this was the extent to which the friends of the bill had gone, or were disposed to go, in claiming a liability on the part of the United States to pay the claimants; and, thus understood, he was ready to proceed to an examination of the strength of this position.

His first duty, then, was to examine the relations existing between France and the United States prior to the commencement of the disturbances out of which these claims have arisen; and the discharge of this duty would compel a dry and uninteresting reference to the several treaties which, at that period, governed those relations.

The seventeenth article of the treaty of amity and commerce of the 6th February, 1778, was the first of these references, and that article was in the following words:

"ART. 17. It shall be lawful for the ships of war of either party, and privateers, freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or any other judges; nor shall such prizes be arrested or seized when they come to or enter the ports of either party; nor shall the searchers or other officers of those places search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show; on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of weather, or the danger of the sea, all proper means shall be vigorously used, that they go out and retire from thence as soon as possible."

This article, Mr. W. said, would be found to be one of the most material of all the stipulations between the two nations, in an examination of the diplomatic correspondence during the whole period of the disturbances, from the breaking out of the war between France and England, in 1793, until the treaty of the 30th September, 1800. The privileges claimed by France, and the exclusions she insisted on as applicable to the other belligerent Powers, were fruitful sources of complaint on both sides, and constituted many material points of disagreement between the two nations through this entire interval. What these claims were on the part of France, and how far they were admitted by the United States, and how far controverted, will, Mr. W. said, be more properly considered in another part of the argument. As connected, however, with this branch of the relations, he thought it necessary to refer to the twenty-second article of the same treaty, which was in the following words:

"ART. 22. It shall not be lawful for any foreign privateers, not belonging to subjects of the Most Christian King, nor citizens of the said United States, who have commissions from any other prince or State in enmity with either nation, to fit their ships in the ports of either the one or the other of the aforesaid parties, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandises, or any other lading; neither shall they be allowed even to purchase victuals, except such as shall be necessary for their going to the next port of that prince or State from which they have commissions."

Mr. W. said he now passed to a different branch of the relations between the two countries, as established by this treaty of amity and commerce, which was the reciprocal right of either to carry on a free trade with the enemies of the other, restricted only by the stipulations of the same treaty in relation to articles to be considered contraband of war. This reciprocal right is defined in the twenty-third article of the treaty, which is in the words following:

"ART. 23. It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to

the places of those who now are or hereafter shall be at enmity with the Most Christian King, or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid to sail with the ships and merchandises aforementioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince, or under several. And it is hereby stipulated that free ships shall also give a freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that, although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemies."

The restrictions as to articles to be held between the two nations as contraband of war, Mr. W. said, were to be found in the twenty-fourth article of this same treaty of amity and commerce, and were as follows:

"ART. 24. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband, and under this name of contraband, or prohibited goods, shall be comprehended arms, great guns, bombs, with fusees and other things belonging to them, cannon ball, gunpowder, match, pikes, swords, lances, spears, halberds, mortars, petards, grenades, saltpetre, muskets, musket ball, bucklers, helmets, breast-plates, coats of mail, and the like kinds of arms proper for arming soldiers, musket rests, belts, horses with their furniture, and all other warlike instruments whatever. These merchandises which follow shall not be reckoned among contraband or prohibited goods; that is to say, all sorts of cloths, and all other manufactures woven of any wool, flax, silk, cotton, or any other material whatever; all kinds of wearing apparel, together with the species whereof they are used to be made; gold and silver, as well coined as uncoined; tin, iron, latten, copper, brass, coals; as also wheat and barley, and any other kind of corn and pulse; tobacco, and likewise all manner of spices; salted and smoked flesh, salted fish, cheese, and butter, beer, oils, wines, sugars, and all sorts of salts; and, in general, all provisions which serve for the nourishment of mankind, and the sustenance of life; furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail cloths, anchors, and any part of anchors, also ships' masts, planks, boards, and beams, of what trees soever; and all other things proper either for building or repairing ships, and all other goods whatever which have not been worked into the form of any instrument or thing prepared for war by land or by sea, shall not be reputed contraband, much less such as have been already wrought and made up for any other use: all which shall be wholly reckoned among free goods; as likewise all other merchandises and things which are not comprehended and particularly mentioned in the foregoing enumeration of contraband goods, so that they may be transported and carried in the freest manner by the subjects of both confederates, even to the places belonging to an enemy, such towns or places being only excepted as are at that time besieged, blocked up, or invested."

Mr. W. said this closed his references to this treaty, with the remark, which he wished carefully borne in mind, that the accepted public law was greatly departed from in this last article. Provisions, in their broadest sense, materials for ships, rigging for ships, and indeed almost all the articles of trade mentioned in the long exception in the article of the treaty, were articles contraband of war by the law of nations. This article, therefore, placed our commerce with France upon a footing widely different, in case of a war between France and any third Power, from the rules which would regulate that commerce with the other belligerent with whom we might not have a similar commercial treaty. Such was its effect as compared with our relations with England, with which Power we had no commercial treaty whatever, but depended upon the law of nations as our commercial rule and standard of intercourse.

Mr. W. said he now passed to the treaty of alliance between France and the United States, of the same date with the treaty of amity and commerce before referred to, and his first reference was to the 11th article of this latter treaty. It was in the following words:

"Art. 11. The two parties guaranty mutually from the present time, and for ever, against all other Powers, to wit: The United States to His Most Christian Majesty the present possessions of the Crown of France in America, as well as those which it may acquire by the future treaty of peace: And His Most Christian Majesty guaranties on his part to the United States, their liberty, sovereignty, and independence, absolute and unlimited, as well in matters of Government as commerce, and also their possessions, and the additions or conquests that their confederation may obtain during the war, from any of the dominions now or heretofore possessed by Great Britain in North America, conformable to the fifth and sixth articles above written, the whole as their possession shall be fixed and assured to the said States at the moment of the cessation of their present war with England."

This article, Mr. W. said, was the most important reference he had made, or could make, so far as the claims provided for by this bill were concerned; because he understood the friends of the bill to derive the principal consideration to the United States, which created their liability to pay the claims, from the guarantee on the part of the United States contained in it. The Senate would see that the article was a mutual and reciprocal guarantee, 1st. On the part of the United States to France, of her possessions in America; and 2d. On the part of France to the United States, of their "liberty, sovereignty, and independence, absolute and unlimited, as well in matters of Government as commerce, and also their possessions," &c.; and that the respective guarantees were "for ever." It would by and by appear in what manner this guarantee on the part of our Government was claimed to be the foundation for this pecuniary responsibility for millions, but at present he must complete his references to the treaties which formed the law between the two nations, and the rule of their relations to and with each other. He had but one more article to read, and that was important only as it went to define the one last cited. This was the 12th article of the treaty of alliance, and was as follows:

"Art. 12. In order to fix more precisely the sense and application of the preceding article, the contracting parties declare that, in case of a rupture between France and England, the reciprocal guarantee declared in the said article shall have its full force and effect the moment such war shall break out; and if such rupture shall not take place, the mutual obligations of the said guarantee shall not commence until the moment of the cessation of the present war between the United

States and England shall have ascertained their possessions."

These, said Mr. W., are the treaty stipulations between France and the United States, existing at the time of the commencement of the disturbances between the two countries, which gave rise to the claims now the subject of consideration, and which seem to bear most materially upon the points in issue. There were other provisions in the treaties between the two Governments more or less applicable to the present discussion, but, in the course he had marked out for himself, a reference to them was not indispensable, and he was not disposed to occupy the time or weary the patience of the Senate with more of these dry documentary quotations than he found absolutely essential to a full and clear understanding of the points he proposed to examine.

Mr. W. said he was now ready to present the origin of the claims which formed the subject of the bill. The war between France and England broke out, according to his recollection, late in the year 1792, or early in the year 1793, and the United States resolved upon preserving the same neutral position between those belligerents, which they had assumed at the commencement of the war between France and certain other European Powers. This neutrality on the part of the United States seemed to be acceptable to the then French Republic, and her minister in the United States and her diplomatic agents at home were free and distinct in their expressions to this effect.

Still that Republic made broad claims under the 17th article of the treaty of amity and commerce before quoted, and her minister here assumed the right to purchase ships, arm them as privateers in our ports, commission officers for them, enlist our own citizens to man them, and, thus prepared, to send them from our ports to cruise against English vessels upon our coast. Many prizes were made, which were brought into our ports, submitted to the admiralty jurisdiction conferred by the French Republic upon her consuls in the United States, condemned, and the captured vessels and cargoes exposed for sale in our markets. These practices were immediately and earnestly complained of by the British Government as violations of the neutrality which our Government had declared, and which we assumed to maintain in regard to all the belligerents, as favors granted to one of the belligerents, not demandable of right under our treaties with France, and as wholly inconsistent, according to the rules of international law, with our continuance as a neutral Power. Our Government so far yielded to these complaints as to prohibit the French from fitting out, arming, equipping, or commissioning privateers in our ports, and from enlisting our citizens to bear arms under the French flag.

This decision of the rights of France, under the treaty of amity and commerce, produced warm remonstrances from her minister in the United States, but was finally ostensibly acquiesced in by the Republic, although constant complaints of evasions and violations of the rule continued to harass our Government, and to occupy the attention of the respective diplomatists.

The exclusive privilege of our ports for her armed vessels, privateers, and their prizes, granted to France by the treaty of amity and commerce, as has before been seen, excited the jealousy of England, and she was not slow in sending a portion of her vast navy to line our coast and block up our ports and harbors. The insolence of power induced some of her armed vessels to enter our ports, and to remain, in violation of our treaty with France, though not by the consent of our Government, or when we had the power to enforce the treaty by their ejection. These incidents, however, did not fail to form the subject of new charges from the French ministers, of bad faith on our part, of partiality to England to the prejudice of our old and faithful ally, of permitted violations of the treaties, and of an inefficiency and want of zeal in the performance of our duties as neutrals. To give point to these complaints, some few instances occurred in which British vessels brought their prizes into our ports, whether in all cases under those casualties of stress of weather, or the dangers of the sea, which rendered the act in conformity with the treaties and the law of nations or not, is not perhaps very certain or very material, inasmuch as the spirit of complaint seems to have taken possession of the French negotiators, and these acts gave colorable ground to their remonstrances.

Cotemporaneously with these grounds of misunderstanding and these collisions of interest between the belligerents, and between the interests of either of them and the preservation of our neutrality, the French began to discover the disadvantages to them, and the great advantages to the British, of the different rules which governed the commerce between the two nations and the United States. The rule between us and France was the commercial treaty of which the articles above quoted form a part, and the rule between us and Great Britain was that laid down by the law of nations. Mr. W. said he would detain the Senate to point out but two of the differences between these rules of commerce and intercourse, because upon these two principally depended the difficulties which followed. The first was, that, by the treaty between us and France, "free ships shall also give a freedom to the goods; and every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemy of either, contraband goods being always excepted;" while the law of nations, which was the rule between us and England, made the goods of an enemy lawful prize, though found in the vessel of a friend. Hence it followed that French property on board of an American vessel was subject to capture by British cruisers without indignity to our flag, or a violation to international law, while British property on board of an American vessel could not be captured by a French vessel without an insult to the flag of the United States, and a direct violation of the twenty-third article of the treaty of amity and commerce between us and France, before referred to.

Mr. W. said the second instance of disadvantage to France which he proposed to mention, was the great difference between the articles made contraband of war by the twenty-fourth article of the treaty of amity and commerce, before read to the Senate, and by the law of nations. By the treaty, provisions of all kinds, ship timber, ship tackle, (guns only excepted,) and a large list of other articles of trade and commerce, were declared not to be contraband of war, while the same articles are expressly made contraband by the law of nations. Hence an American vessel, clearing for a French port with a cargo of provisions or ship stores, was lawful prize to a British cruiser, as, by the law of nations, carrying articles contraband of war to an enemy, while the same vessel, clearing for a British port, with the same cargo, could not be captured by a French vessel, because the treaty declared that the articles composing the cargo should not be contraband as between the United States and France. Mr. W. said the Senate would see, at a single glance, how eminently these two advantages on the part of Great Britain were calculated to turn our commerce to her ports, where, if the treaty between us and France was observed, our vessels could go in perfect safety, while, laden with provisions, our only considerable export, and destined for a French port, they were liable to capture, as carrying to an enemy contraband articles.

Upon their return, too, they were equally out of danger from French cruisers, as, by the treaty, free ships made free the goods on board; while, if they cleared from a port in France with a French cargo, they were lawful prize to the British, upon the principle of the law of nations, that the goods of an enemy are lawful prize, even when found in the vessel of a friend.

Both nations were in constant and urgent want of provisions from the United States; and this double advantage to England of having her ports open and free to our vessels, and of possessing the right to capture those bound to French ports, exasperated the French Republic beyond endurance. Her ministers remonstrated with our Government, controverted our construction of British rights, again renewed the accusations of partiality, and finally threw off the obligations of the treaty; and, by a solemn decree of their authorities at home, established the rule which governed the practice of the British cruisers. France, assuming to believe that the United States permitted the neutrality of her flag to be violated by the British without resistance, declared that she would treat the flag of all neutral vessels as that flag should permit itself to be treated by the other belligerents. This opened our commerce to the almost indiscriminate plunder and depredation of all the Powers at war, and but for the want of the provisions of the United States, which was too strongly felt both in England and France not to govern, in a great degree, the policy of the two nations, it would seem probable, from the documentary history of the period, that it must have been swept from the ocean. Impelled by this want, however, the British adopted the rule, at an early day, that the provisions captured, although in a strict legal sense forfeited, as being by the law of nations contraband, should not be confiscated, but carried into English ports, and paid for at the market price of the same provisions at the port of their destination. The same want compelled the French, when they came to the conclusion to lay aside the obligations of the treaty, and to govern themselves, not by solemn compacts with friendly Powers, but by the standards of wrong adopted by their enemies, to adopt also the same rule, and instead of confiscating the cargo as contraband of war, if provisions, to decree a compensation graduated by the market value at the port of destination.

Such, said Mr. W., is a succinct view of the disturbances between France and the United States, and between France and Great Britain, out of which grew what are now called the French claims for spoliations upon our commerce prior to the 30th September, 1800. Other subjects of difference might have had a remote influence; but, Mr. W. said, he believed it would be admitted by all that those he had named were the principal, and might be assumed as having given rise to the commercial irregularities in which the claims commenced. This state of things, without material change, continued until the year 1798, when our Government adopted a course of measures intended to suspend our intercourse with France until she should be brought to respect our rights. These measures were persevered in by the United States up to September, 1800, and were terminated by the treaty between the two nations of the 30th of that month. Here, too, terminated claims which now occupy the attention of the Senate.

As it was the object of the claimants to show a liability on the part of our Government to pay their claims, and the bill under discussion assumed that liability, and provided, in part at least, for the payment, Mr. W. said it became his duty to inquire what the Government had done to obtain indemnity for these claimants from France, and to see whether negligence on its part had furnished equitable or legal ground for the institution of this large claim upon the national treasury. The period of time covered by the claims, as he understood the subject, was from the breaking out of the war between France and England, in 1793, to the signing of the treaty between France and the United States, in September, 1800; and he would consider the efforts the Government had made to obtain indemnity:

1st. From 1793 to 1798.

2d. From 1798 to the treaty of the 30th September, 1800.

During the first period, Mr. W. said, these efforts were confined to negotiation, and he felt safe in the assertion that, during no equal period in the history of our Government, could there be found such untiring and unremitted exertions to obtain justice for citizens who had been injured in their properties by the unlawful acts of a foreign Power. Any one who would read the mass of diplomatic correspondence between this Government and France, from 1793 to 1798, and who would mark the frequent and extraordinary missions, bearing constantly in mind that the recovery of these claims was the only ground upon our part for the whole negotiation, would find it difficult to say where negligence towards the rights and interests of its citizens is imputable to the Government of the United States during this period. He was not aware that such an imputation had been or would be made; but sure he was that it could not be made with justice, or sustained by the facts upon the record. No liability, therefore, equitable or legal, had been incurred up to the year 1798.

And if, said Mr. W., negligence is not imputable prior to 1798, and no liability had then been incurred, how is it for the second period, from 1798 to 1800? The efforts of the former period were negotiation, constant, earnest, extraordinary negotiation. What were they for the latter period? His answer was, war, actual, open war; and he believed the statute book of the United States would justify him in the position. He was well aware that this point would be strenuously controverted, because the friends of the bill would admit that, if a state of war between the two countries did exist, it put an end to claims existing prior to the war, and not provided for in the treaty of peace, as well as to all pretence for claims to indemnity for injuries to our commerce committed by our enemy in time of war. Mr. W. said he had found the evidences so numerous to establish his position that a state of actual war did exist, that he had been quite at a loss from what portion of the testimony of record to make his selections, so as to establish the fact beyond reasonable dispute, and at the same time not to weary the Senate by tedious references to laws and documents. He had finally concluded to confine himself exclusively to the statute book, as the highest possible evidence, as in his judgment entirely conclusive, and as being susceptible of an arrangement and condensation which would convey to the Senate the whole material evidence in a satisfactory manner, and in less compass than the proofs to be drawn from any other source. He had, therefore, made a very brief abstract of a few statutes, which he would read in his place:

By an act of the 28th May, 1798, Congress authorized the capture of all armed vessels of France which had committed depredations upon our commerce, or which should be found hovering upon our coast for the purpose of committing such depredations.

By an act of the 13th June, 1798, only sixteen days after the passage of the former act, Congress prohibited all vessels of the United States from visiting any of the ports of France or her dependencies, under the penalty of forfeiture of vessel and cargo; required every vessel clearing for a foreign port to give bonds, (the owner, or factor and master,) in the amount of the vessel and cargo, and good sureties in half that amount, conditioned that the vessel to which the clearance was to be

granted would not, voluntarily, visit any port of France or her dependencies; and prohibited all vessels of France, armed or unarmed, or owned, fitted, hired, or employed, by any person resident within the territory of the French Republic or its dependencies, or sailing or coming therefrom, from entering or remaining in any port of the United States, unless permitted by the President by special passport, to be granted by him in each case.

By an act of the 25th June, 1798, only twelve days after the passage of the last-mentioned act, Congress authorized the merchant vessels of the United States to arm, and to defend themselves against any search, restraint, or seizure, by vessels sailing under French colors, to repel force by force, to capture any French vessel attempting a search, restraint, or seizure, and to recapture any American merchant vessel which had been captured by the French.

Here, Mr. W. said, he felt constrained to make a remark upon the character of these several acts of Congress, and to call the attention of the Senate to their peculiar adaptation to the measures which speedily followed in future acts of the national Legislature. The first, authorizing the capture of French armed vessels, was peculiarly calculated to put in martial preparation all the navy which the United States then possessed, and to spread it upon our coast. The second, establishing a perfect non-intercourse with France, was sure to call home our merchant vessels from that country and her dependencies, to confine within our own ports those vessels intended for commerce with France, and thus to withdraw from the reach of the French cruisers a large portion of the ships and property of our citizens. The third, authorizing our merchantmen to arm, was the greatest inducement the Government could give to its citizens to arm our whole commercial marine, and was sure to put in warlike preparation as great a portion of our merchant vessels as a desire of self-defence, patriotism, or cupidity, would arm. Could measures more eminently calculated to prepare the country for a state of war have been devised or adopted? Was this the intention of those measures on the part of the Government, and was that intention carried out into action? Mr. W. said he would let the subsequent acts of the Congress of the United States answer; and for that purpose he would proceed to read from his abstract of those acts.

By an act of the 28th June, 1798, three days after the passage of the act last referred to, Congress authorized the forfeiture and condemnation of all French vessels captured in pursuance of the acts before mentioned, and provided for the distribution of the prize money, and for the confinement and support, at the expense of the United States, of prisoners taken in the captured vessels.

By an act of the 7th July, 1798, nine days after the passage of the last-recited act, Congress declared "that the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States."

By an act of the 9th July, 1798, two days after the passage of the act declaring void the treaties, Congress authorized the capture, by the public armed vessels of the United States, of all armed French vessels, whether within the jurisdictional limits of the United States or upon the high seas, their condemnation as prizes, their sale, and the distribution of the prize money; empowered the President to grant commissions to private armed vessels to make the same captures, and with the same rights and powers, as public armed vessels; and provided for the safe keeping and support of the prisoners taken, at the expense of the United States.

By an act of the 9th February, 1799, Congress continued the non-intercourse between the United States and France for one year from the 3d of March, 1799.

By an act of the 28th February, 1799, Congress provided for an exchange of prisoners with France, or authorized the President, at his discretion, to send to the dominions of France, without an exchange, such prisoners as might remain in the power of the United States.

By an act of the 3d March, 1799, Congress directed the President, in case any citizens of the United States, taken on board vessels belonging to any of the Powers at war with France, by French vessels, should be put to death, corporeally punished, or unreasonably imprisoned, to retaliate promptly and fully upon any French prisoners in the power of the United States.

By an act of the 27th February, 1800, Congress again continued the non-intercourse between us and France for one year from the 3d of March, 1800.

Mr. W. said he had now closed the references he proposed to make to the laws of Congress, to prove that war, actual war, existed between the United States and France from July, 1798, until that war was terminated by the treaty of the 30th of September, 1800. He had, he hoped, before shown that the measures of Congress, up to the passage of the act of Congress of the 25th of June, 1798, and including that act, were appropriate measures preparatory to a state of war; and he had now shown a total suspension of the peaceable relations between the two Governments, by the declaration of Congress that the treaties should no longer be considered binding and obligatory upon our Government or its citizens. What, then, but war could be inferred from an indiscriminate direction to our public armed vessels, put in a state of preparation by preparatory acts, to capture all armed French vessels upon the high seas, and from granting commissions to our whole commercial marine, also armed by the operation of previous acts of Congress, authorizing them to make the same captures, with regulations applicable to both, for the condemnation of the prizes, the distribution of the prize money, and the detention, support, and exchange, of the prisoners taken in the captured vessels? Will any man, said Mr. W., call this a state of peace?

[Here Mr. WEBSTER, chairman of the select committee which reported the bill, answered, "Certainly."]

Mr. W. proceeded. He said he was not deeply read in the treatises upon national law, and he should never dispute with that learned gentleman upon the technical definitions of peace and war, as given in the books; but his appeal was to the plain sense of every Senator and every citizen of the country. Would either call that state of things which he had described, and which he had shown to exist from the highest of all evidence, the laws of Congress alone, peace? It was a state of open and undisguised hostility, of force opposed to force, of war upon the ocean, as far as our Government were in command of the means to carry on a maritime war. If it was peace, he should like to be informed by the friends of the bill what would be war. This was violence and bloodshed, the power of the one nation against the power of the other, reciprocally exhibited by physical force.

Couple with this the withdrawal by France of her minister from this Government, and her refusal to receive the American commission, consisting of Messrs. Marshall, Pinckney, and Gerry, and the consequent suspension of negotiations between the two Governments during the period referred to, and Mr. W. said if the facts and the national records did not show a state of war, he was at a loss to know what state of things between nations should be called war.

If, however, the Senate should think him wrong in this conclusion, and that the claims were not utterly barred by war, he trusted the facts disclosed in this part of his argument would be considered sufficient at least to protect the faith of the Government in the discharge of its whole duty to its citizens; and that after it had carried on these two years of war, or, if not war, of actual force and actual fighting, in which the blood of its citizens had been shed, and their lives sacrificed to an unknown extent, for the single and sole purpose of enforcing these claims of individuals, the imputation of negligence, and hence of liability to pay the claims, would not be urged as growing out of this portion of the conduct of the Government.

Mr. W. said he now came to consider the treaty of the 30th September, 1800, and the reasons which appeared plainly to his mind to have induced the American negotiators to place that negotiation upon the basis, not of an existing war, but of a continued peace. That such was assumed to be the basis of the negotiation, he believed to be true, and this fact, and this fact only, so far as he had heard the arguments of the friends of the bill, was depended upon to prove that there had been no war. He had attempted to show that war in fact had existed, and been carried on for two years; and if he could now show that the inducement, on the part of the American ministers, to place the negotiation which was to put an end to the existing hostilities upon a peace basis, arose from no considerations of a national or political character, and from no ideas of consistency with the existing state of facts, but solely from a desire still to save, as far as might be in their power, the interests of these claimants, he should submit with great confidence that it did not lay in the mouths of the same claimants to turn round and claim this implied admission of an absence of war, thus made by the agents of the Government out of kindness to them, and an excess of regard for their interests, as the basis of a liability to pay the damages which they had sustained, and which this diplomatic untruth, like all the previous steps of the Government, failed to recover for them. What, then, Mr. President, said Mr. W., was the subject on our part, of the constant and laborious negotiations carried on between the two Governments from 1793 to 1798? The claims. What, on our part, was the object of the disturbances from 1798 to 1800—of the non-intercourse—of the sending into service our navy, and arming our merchant vessels—of our raising troops and providing armies on the land—of the expenditure of the millions taken from the treasury and added to our public debt, to equip and sustain these fleets and armies? The claims. Why were our citizens sent to capture the French, to spill their blood, and lay down their lives upon the high seas? To recover the claims. These were the whole matter. We had no other demand upon France, and, upon our part, no other cause of difference with her.

What public, or national, or political object had we in the negotiation of 1800, which led to the treaty of the 30th September of that year? None, but to put an end to the existing hostilities, and to restore relations of peace and friendship. These could have been as well secured by negotiating upon a war as a peace basis. Indeed, as there were in our former treaties stipulations which we did not want to revive, a negotiation upon the basis of existing war was preferable, so far as the interests of the Government were concerned, because that would put all questions, growing out of former treaties between the parties, for ever at rest. Still our negotiators consented to put the negotiation upon the basis of continued peace, and why? Because the adoption of a basis of existing war would have barred effectually and for ever all classes of the claims. This, Mr. W. said, was the only possible assignable reason for the course pursued by the American negotiators; it was the only reason growing out of the existing facts, or out of the interests, public or private, involved in the difficulties between the two nations. He therefore felt himself fully warranted in the conclusion, that the American ministers preferred and adopted a peace basis for the negotiation which resulted in the treaty of the 30th of September, 1800, solely from a wish, as far as they might be able, to save the interests of our citizens holding claims against France.

Did they, Mr. President, said Mr. W., succeed by this artifice in benefiting the citizens who had sustained injuries? He would let the treaty speak for itself. The following are extracts from the 4th and 5th articles:

"ART. 4. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, (contraband goods destined to an enemy's port excepted,) shall be mutually restored on the following proof of ownership:"

[Here follows the form of proof, when the article proceeds:]

"This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall, without delay, be restored or paid for."

"ART. 5. The debts contracted for by one of the two nations with individuals of the other, or by individuals of the one with individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations."

Here, Mr. W. said, was evidence from the treaty itself, that, by assuming a peace basis for the negotiation, the property of our merchants captured and not condemned was saved to them, and that certain classes of claimants against the French Government were provided for, and their rights expressly reserved. So much, therefore, was gained by our negotiators by a departure from the facts, and negotiating to put an end to existing hostilities upon the basis of a continued peace. Was it, then, generous or just to permit these merchants, because our ministers did not succeed in saving all they claimed, to set up this implied admission of continued peace as the foundation of a liability against their own Government to pay what was not recovered from France? He could not so consider it, and he felt sure the country would never consent to so responsible an implication from an act of excessive kindness. Mr. W. said he must not be understood as admitting that all was not, by the effect of this treaty, recovered from France, which she ever recognised to be due, or ever intended to pay. On the contrary, his best impression was, from what he had been able to learn of the claims, that the treaty of Louisiana provided for the payment of all the claims which France ever admitted, ever intended to pay, or which there was the most remote hope of recovering in any way whatever. He should, in a subsequent part of his remarks, have occasion to examine that treaty, the claims which were paid under it, and to compare the claims paid with those urged before the treaty of September, 1800.

Mr. W. said he now came to the consideration of the liability of the United States to these claimants, in case it shall be determined by the Senate that a war between France and the United States had not existed to bar all ground of claim either against France or the United States. He understood the claimants to put this liability upon the assertion that the Government of the United States had released their claims against France by the

treaty of the 30th of September, 1800, and that the release was made for a full and valuable consideration passing to the United States, which in law and equity made it their duty to pay the claims. The consideration passing to the United States is alleged to be their release from the onerous obligations imposed upon them by the treaties of amity and commerce and alliance of 1778, and the consular convention of 1778, and especially and principally by the seventeenth article of the treaty of amity and commerce, in relation to armed vessels, privateers, and prizes, and by the eleventh article of the treaty of alliance containing the mutual guarantees.

The release, Mr. W. said, was claimed to have been made in the striking out, by the Senate of the United States, of the second article of the treaty of 30th September, 1800, as that article was originally inserted and agreed upon by the respective negotiators of the two Powers, and as it stood at the time the treaty was signed. To cause this point to be clearly understood, it would be necessary for him to trouble the Senate with a history of the ratification of this treaty. The second article, as inserted by the negotiators, and as standing at the time of the signing of the treaty, was in the following words:

"ART. 2. The ministers plenipotentiary of the two Powers not being able to agree, at present, respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further upon these subjects at a convenient time; and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:"

The residue of the treaty, Mr. W. said, was a substantial copy of the former treaties of amity and commerce, and alliance between the two nations, with such modifications as were desirable to both, and as experience under the former treaties had shown to be for the mutual interests of both.

This second article was submitted to the Senate by the President as a part of the treaty, as by the constitution of the United States the President was bound to do, to the end that the treaty might be properly ratified on the part of the United States, the French Government having previously adopted and ratified it as it was signed by the respective negotiators, the second article being then in the form given above. The Senate refused to advise and consent to this article, and expunged it from the treaty, inserting in its place the following:

"It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications."

In this shape, and with this modification, the treaty was duly ratified by the President of the United States, and returned to the French Government for its dissent or concurrence. Bonaparte, then First Consul, concurred in the modification made by the Senate, in the following language, and upon the condition therein expressed:

"The Government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition, purporting that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article."

This ratification by the French Republic, thus qualified, was returned to the United States, and the treaty, with the respective conditional ratifications, was again submitted by the President of the United States to the Senate. That body "resolved that they considered the said convention as fully ratified, and returned the same to the President for the usual promulgation;" whereupon he completed the ratification in the usual forms and by the usual publication.

This, Mr. W. said, was the documentary history of this treaty and of its ratification, and here was the release of their claims relied upon by the claimants under the bill before the Senate. They contend that this second article of the treaty, as originally inserted by the negotiators, reserved their claims for future negotiation, and also reserved the subjects of disagreement under the treaties of amity and commerce, and of alliance, of 1778, and the consular convention of 1788; that the seventeenth article of the treaty of amity and commerce, and the eleventh article of the treaty of alliance, were particularly onerous upon the United States; that, to discharge the Government from the onerous obligations imposed upon it in these two articles of the respective treaties, the Senate was induced to expunge the second article of the treaty of the 30th of September above referred to, and, by consequence, to expunge the reservation of their claims as subjects of future negotiation between the two nations; that, in thus obtaining a discharge from the onerous obligations of these treaties, and especially of the two articles above designated, the United States was benefited to an amount beyond the whole value of the claims discharged, and that this benefit was the inducement to the expunging of the second article of the treaty, with a full knowledge that the act did discharge the claims, and create a legal and equitable obligation on the part of the Government to pay them.

These, Mr. W. said, he understood to be the assumptions of the claimants, and this their course of reasoning to arrive at the conclusion that the United States were liable to them for the amount of their claims. He must here raise a preliminary question, which he had satisfied himself would show these assumptions of the claimants to be wholly without foundation, so far as the idea of benefit to the United States was supposed to be derived from expunging this second article of the treaty of 1800. What, he must be permitted to ask, would have been the liability of the United States under the "onerous obligations" referred to, in case the Senate had ratified the treaty, retaining this second article? The binding force of the treaties of amity and commerce, and of alliance, and of the consular convention, was released, and the treaties and convention were themselves suspended by the very article in question; and the subjects of disagreement growing out of them were merely made matters of future negotiation "at a convenient time." What was the value or the burden of such an obligation upon the United States? for this was the only obligation from which our Government was released by striking out the article. The value, Mr. W. said, was the value of the privilege, being at perfect liberty, in the premises, of assenting to or disenting from a bad bargain, in a matter of negotiation between ourselves and a foreign Power. This was the consideration passing to the United States, and, so far as he was able to view the subject, this was all the consideration the Government had received, if it be granted, (which he must by no means be understood to admit,) that the striking out of the article was a release of the claims, and that such release was intended as a consideration for the benefits to accrue to the Government from the act.

Mr. W. said he felt bound to dwell, for a moment, upon this point. What was the value of an obligation to negotiate "at a convenient time?" Was it any thing to be valued? The "convenient time" might never arrive, or, if it did arrive, and negotiations were opened,

were not the Government as much at liberty as in any other case of negotiation, to refuse propositions which were deemed disadvantageous to itself? The treaties were suspended, and could not be revived without the consent of the United States; and, of consequence, the "onerous obligations" comprised in certain articles of these treaties were also suspended until the same consent should revive them. Could he, then, be mistaken in the conclusion that, if the treaty of 1800 had been ratified with the second article forming a part of it, as originally agreed by the negotiators, the United States would have been as effectually released from the onerous obligations of the former treaties, until those obligations should again be put in force by their consent, as they were released when that article was stricken out, and the treaty ratified without it? In short, could he be mistaken in the position that all the inducement, of a national character, to expunge that article from the treaty, was to get rid of an obligation to negotiate "at a convenient time?" And could it be possible that such an inducement would have led the Senate of the United States, understanding this consequence, to impose upon the Government a liability to the amount of $5,000,000? He could not adopt so absurd a supposition; and he felt himself compelled to say that this view of the action of the Government in the ratification of the treaty of 1800, in his mind, put an end to the pretence that the striking out of this article relieved the United States from obligations so onerous as to form a valuable consideration for the payments provided for in this bill. He could not view the obligation released—a mere obligation to negotiate—as onerous at all, or as forming any consideration whatever for a pecuniary liability, much less for a liability for millions.

Mr. W. said he now proposed to consider whether the effect of expunging the second article of the treaty of 1800 was to release any claim of value—any claim which France had ever acknowledged, or ever intended to pay. He had before shown, by extracts from the fourth and fifth articles of the treaty of 1800, that certain classes of claims were saved by that treaty as it was ratified. The claims so reserved and provided for were paid in pursuance of provisions contained in the treaty between France and the United States, of the 30th of April, 1803; and to determine what claims were thus paid, a reference to some of the articles of that treaty was necessary. The purchase of Louisiana was made by the United States for the sum of 80,000,000 of francs, 60,000,000 of which were to be paid into the French treasury, and the remaining 20,000,000 were to be applied to the payment of these claims. Three separate treaties were made between the parties, bearing all the same date, the first providing for the cession of the territory, the second for the payment of the 60,000,000 of francs to the French treasury, and the third for the adjustment and payment of the claims.

Mr. W. said the references proposed were to the last-named treaty, and were the following:

"ART. 1. The debts due by France to citizens of the United States, contracted before the 8th of Vendemiaire, ninth year of the French Republic, (30th September, 1800,) shall be paid according to the following regulations, with interest at six per cent., to commence from the period when the accounts and vouchers were presented to the French Government.

"ART. 2. The debts provided for by the preceding article are those whose result is comprised in the conjectural note annexed to the present convention, and which, with the interest, cannot exceed the sum of twenty millions of francs. The claims comprised in the said note, which fall within the exceptions of the following articles, shall not be admitted to the benefit of this provision."

"ART. 4. It is expressly agreed that the preceding articles shall comprehend no debts but such as are due to citizens of the United States, who have been and are yet creditors of France, for supplies, for embargoes, and prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention of the 8th Vendemiaire, ninth year, (30th September, 1800.)

"ART. 5. The preceding articles shall apply only, 1st, to captures of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States otherwise than he might have had to the Government of the French Republic, and only in case of the insufficiency of the captors; 2d, the debts mentioned in the said fifth article of the convention, contracted before the 8th Vendemiaire, and 9, (30th September, 1800,) the payment of which has been heretofore claimed of the actual Government of France, and for which the creditors have a right to the protection of the United States; the said fifth article does not comprehend prizes whose condemnation has been or shall be confirmed; it is the express intention of the contracting parties not to extend the benefit of the present convention to reclamations of American citizens, who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who by that reason and the nature of their commerce, ought to be regarded as domiciliated in the places where such houses exist. All agreements and bargains concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention, saving, however, to such persons their claims in like manner as if this treaty had not been made."

From these provisions of the treaty, Mr. W. said, it would appear that the claims to be paid were of three descriptions, to wit:

1. Claims for supplies.
2. Claims for embargoes.
3. Claims for captures made at sea, of a description defined in the last clause of the 4th and the first clause of the 5th article.

How far these claims embraced all which France ever acknowledged, or ever intended to pay, Mr. W. said he was unable to say, as the time allowed him to examine the case had not permitted him to look sufficiently into the documents to make up his mind with precision upon this point. He had found, in a report made to the Senate on the 14th of January, 1831, in favor of this bill, by the honorable Mr. Livingston, then a Senator from the State of Louisiana, the following classification of the French claims, as insisted on at a period before the making of the treaty of 1800, to wit:

"1. From the capture and detention of about fifty vessels.

"2. The detention, for a year, of eighty other vessels, under the Bordeaux embargo.

"3. The non-payment of supplies to the West India islands, and to continental France.

"4. For depredations committed on our commerce in the West Indies."

Mr. W. said the comparison of the two classifications of claims would show, at a single view, that Nos. 2 and 3 in Mr. Livingston's list were provided for by the treaty of 1803, from which he had read. Whether any, and if any, what portions of Nos. 1 and 4 in Mr. Livingston's list were embraced in No. 3 of the provisions of the treaty, as he had numbered them, he was unable to say; but this much he could say, that he had found nothing to satisfy his mind that parts of both those classes of claims were not so included, and therefore provided for and paid under the treaty; nor had he been able to

find any thing to show that this treaty of 1803 did not provide for and pay all the claims which France ever acknowledged or ever intended to pay. He was, therefore, unprepared to admit, and did not admit, that any thing of value to any class of individual claimants was released by expunging the second original article from the treaty of the 30th September, 1800. On the contrary, he was strongly impressed with the belief that the adjustment of claims provided for in the treaty of 1803 had gone to the whole extent to which the French Government had, at any period of the negotiations, intended to go.

Mr. W. said this impression was greatly strengthened by the circumstance that the claims under the Bordeaux embargo were expressly provided for in this treaty, while he could see nothing in the treaty of 1800 which seemed to him to authorize the supposition that this class of claims was more clearly embraced within the reservations in that treaty than any class which had been admitted by the French Government.

Another fact, Mr. W. said, was material to this subject, and should be borne carefully in mind by every Senator. It was, that not a cent was paid by France, even upon the claims reserved and admitted by the treaty of 1800, until the sale of Louisiana to the United States, for a sum greater by thirty millions of francs than that for which the French minister was instructed to sell it. Yes, Mr. President, said Mr. W., the only payment yet made upon any portion of these claims has been virtually made by the United States; for it has been made out of the consideration money paid for Louisiana, after paying into the French treasury ten millions of francs beyond the price France herself placed upon the Territory. It is a singular fact that the French negotiator was instructed to make the sale for fifty millions if he could get no more; and when he found that, by yielding twenty millions to pay the claims, he could get eighty millions for the Territory, and thus put ten millions more into the treasury of his nation than she had instructed him to ask for the whole, he yielded to the claims and closed the treaty. It was safe to say that, but for this speculation in the sale of Louisiana, not one dollar would have been paid upon the claims to this day. All our subsequent negotiations with France of a similar character, and our present relations with that country, growing out of private claims, justify this position. What, then, would have been the value of claims, if such fairly existed, which were not acknowledged and provided for by the treaty of 1800, but were left for future negotiation "at a convenient time?" Would they have been worth the five millions of dollars you propose to appropriate by this bill? Would they have been worth further negotiation? He thought they would not.

Mr. W. said he would avail himself of this occasion, when speaking of the treaty of Louisiana and of its connexion with these claims, to explain a mistake into which he had fallen, and which he found from conversation with several gentlemen, who had been for some years members of Congress, had been common to them and to himself. The mistake to which he alluded was, the supposition that the claimants under this bill put their case upon the assumption that their claims had constituted part of the consideration for which Louisiana had been ceded to the United States; and that the consideration they contended the Government had received, and upon which its liability rested, was the cession of that Territory for a less sum, in money, than was considered to be its value, on account of the release of the French Government from those private claims. He had rested under this misapprehension until the opening of the present debate, and until he commenced an examination of the case. He then found that it was an entire misapprehension; that the United States had paid, in money, for Louisiana, thirty millions of francs beyond the price which France had set upon it; that the claimants under this bill did not rest their claims at all upon this basis, and that the friends of the bill in the Senate did not pretend to derive the liability of the Government from this source. Mr. W. said he was induced to make this explanation in justice to himself, and because there might be some person within the hearing of his voice who might still be under the same misapprehension.

He had now, Mr. W. said, attempted to establish the following propositions, viz:

1. That a state of actual war, by which he meant a state of actual hostilities and of force, and an interruption of all diplomatic or friendly intercourse between the United States and France, had existed from the time of the passage of the acts of the 7th and 9th July, 1798, before referred to, until the sending of the negotiators, Ellsworth, Davie, and Murray, in 1800, to make a treaty which put an end to the hostilities existing, upon the best terms that could be obtained; and that the treaty of the 30th of September, 1800, concluded by these negotiators, was, in fact, and so far as private claims were concerned, to be considered as a treaty of peace, and to conclude all such claims, not reserved by it, as finally ratified by the two Powers.

2. That the treaty of amity and commerce, and the treaty of alliance of 1778, as well as the consular convention of 1788, were suspended by the 2d article of the treaty of 1800, and from that time became mere matters for negotiation between the parties at a convenient time; that, therefore, the desire to get rid of these treaties, and of any "onerous obligations" contained in them, was only the desire to get rid of an obligation to negotiate "at a convenient time;" and that such a consideration could not have induced the Senate of the United States to expunge that article from the treaty, if thereby that body had supposed it was imposing upon the country a liability to pay to its citizens the sum of five millions of dollars—a sum much larger than France had asked, in money, for a full discharge from the "onerous obligations" relied upon.

3. That the treaty of 1800 reserved and provided for certain portions of the claims; that payment, according to such reservations, was made under the treaty of 1803; and that it is at least doubtful whether the payment thus made did not cover all the claims ever admitted, or ever intended to be paid by France; for which reason the expunging of the second article of the treaty of 1800 by the Senate of the United States, in all probability, released nothing which ever had, or which was ever likely to have, value.

Mr. W. said, if he had been successful in establishing either of these positions, there was an end of the claims, and, by consequence, a defeat of the bill.

The advocates of the bill conceded that two positions must be established, on their part, to sustain it, to wit:

1. That the claims were valid claims against France, and had never been paid. And

2. That they were released by the Government of the United States for a full and valuable consideration passing to its benefit by means of the release.

If, then, a state of war had existed, it would not be contended that any claims of this character, not reserved or provided for in the treaty of peace, were valid claims after the ratification of such a treaty. His first proposition, therefore, if sustained, would defeat the bill, by establishing the fact that the claims, if not reserved in the treaty of 1800, were not valid claims.

The second proposition, if sustained, would establish the fact that, inasmuch as the valuable consideration passing to the United States was alleged to grow out of the

"onerous obligations" in the treaty of amity and commerce, the treaty of alliance, and the consular convention; and inasmuch as these treaties, and all obligations, past, present, or future, "onerous" or otherwise, growing out of them, were suspended and made inoperative by the second article of the treaty of the 30th of September, 1800, until further negotiation, by the common consent of both Powers, should revive them, the Senate of the United States could not have expected, when they expunged this article from the treaty, that, by thus discharging the Government from an obligation to negotiate "at a convenient time," they were incurring against it a liability of millions; in other words, the discharge of the Government from an obligation to negotiate upon any subject "at a convenient time," could not have been considered by the Senate of the United States as a good and valuable consideration for the payment of private claims to the amount of five millions of dollars.

The third proposition, if sustained, would prove that all the claims ever acknowledged, or ever intended to be paid by France, were paid under the treaty of 1803, and that, therefore, as claims never admitted or recognised by France would scarcely be urged as valid claims against her, no valid claims remained; and, consequently, the expunging of the second article of the treaty of the 30th of September, 1800, released nothing which was valid, and nothing remained to be paid by the United States as a liability incurred by that modification of that treaty. Here, Mr. W. said, he would rest his reasoning as to these three propositions.

But if the Senate should determine that he had been wrong in them all, and had failed to sustain either, he had still another proposition which he considered conclusive and unanswerable as to any valuable consideration for the release of these claims having passed to the United States in consequence of their discharge from the "onerous obligations" said to have been contained in the former treaties. These "onerous obligations," and the only ones of which he had heard any thing in the course of the debate, or of which he had found any thing in the documents, arose under the 17th article of the treaty of amity and commerce, and the 11th article of the treaty of alliance; and, in relation to both, he laid down this broad proposition, which would be fully sustained by the treaties themselves, and by every act and every expression on the part of the American negotiators and the Government of the United States, viz:

4. The obligations, liabilities, and responsibilities, imposed upon the Government of the United States and upon France by the 17th article of the treaty of amity and commerce of 1778, and by the 11th article of the treaty of alliance of 1778, were mutual, reciprocal, and equal: each formed the consideration, and the only consideration, for the other; and, therefore, any release which discharged both Powers from those liabilities, responsibilities, and obligations, must have been mutual, reciprocal, and equal, and the release of either must have formed a full and valuable consideration for the release of the other.

Mr. W. said he would not trouble the Senate by again reading the articles from the respective treaties. They would be recollected, and no one would controvert the fact that, when the treaties were made, these articles were intended to contain mutual, reciprocal, and equal obligations. By the first, we gave to France the liberty of our ports for her armed vessels, privateers, and prizes, and prohibited all other Powers from the enjoyment of the same privilege; and France gave to us the liberty of her ports for our armed vessels, privateers, and prizes, and guarded the privilege by the same prohibition to other Powers: and by the second we guarantied to France, for ever, her possessions in America, and France guarantied to us, for ever, "our liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce." Such were the obligations in their original inception. Will it be contended that they were not mutual, reciprocal, and equal, and that, in each instance, the one did not form the consideration for the other? Surely no one will take this ground.

If, then, said Mr. W., the obligations imposed upon each Government by these articles of the respective treaties were mutual, reciprocal, and equal, when undertaken, they must have remained equal until abrogated by war, or changed by treaty stipulation. No treaty, subsequent to those which contain the obligations, had affected them in any manner whatever. If, as he had attempted to show, war had existed from July, 1778, to 1800, that would not have rendered the obligations unequal, but would have abrogated them altogether. If, as the friends of the bill contend, there had been no war, and the treaties were in full force up to the signing of the convention of the 30th of September, 1800, what was the effect of that treaty, as originally signed by the negotiators, upon these mutual, reciprocal, and equal obligations? The second original article of that treaty will answer. It did not attempt to disturb their mutuality, reciprocity, or equality, but suspended them as they were, past, present, or future, and made all the subject of future negotiation "at a convenient time."

But, Mr. W. said, the Senate of the United States expunged this article of the treaty of 1800, and refused to advise and consent to ratify it as a part of the treaty; and hence it was contended the United States had discharged themselves from the "onerous obligations" of these articles in the respective treaties, and had, by that act, incurred, to the claimants under this bill, the heavy liability which it recognises. If the expunging of that article discharged the United States from obligations thus onerous, did it not discharge France from the fellow obligations? Was not the discharge, made in that manner, as mutual, reciprocal, and equal, as the obligations in their inception, and in all their subsequent stages up to that act? How, then, could it be contended that the discharge of the one was not a full and adequate consideration for the discharge of the other? Nothing upon the face of the treaties authorized the introduction of this inequality at this step in the official proceedings. Nothing in the record of the proceedings of the Senate, when acting upon the article, indicates that they intended to pay $5,000,000 to render this mutual release equal between the two Powers. The obligations and responsibilities were reserved as subjects of future negotiation, upon terms of equality, and the striking out of that reservation was but a mutual and reciprocal and equal release from the obligation further to negotiate. This much for the reciprocity of these obligations as derived from the action of the sovereign Powers themselves.

What was to be learned from the action of their respective negotiators? He did not doubt but that attempts had been made on the part of France to exhibit an inequality in the obligations under the treaty, and to set up that inequality against the claims of our citizens; but had our negotiators ever admitted the inequality to exist, or ever attempted to compromise the rights of the claimants under this bill for such a consideration? He could not find that they had. He did not hear it contended that they had; and, from the evidence of their acts, remaining upon record, as a part of the diplomatic correspondence of the period, he could not suppose they had ever entertained the idea. He had said that the American negotiators had always treated these obligations as mutual, reciprocal, and equal; and he now proposed to read to the Senate a part of a letter from Messrs. Ellsworth, Davie, and Murray, addressed to the French ne-

gotiators, and containing the project of a treaty, to justify his assertion. The letter was dated 20th August, 1800, and it would be recollected that its authors were the negotiators, on the part of the United States, of the treaty of the 30th of September, 1800. The extract is as follows:

"1st. Let it be declared that the former treaties are renewed and confirmed, and shall have the same effect as if no misunderstanding between the two Powers had intervened, except so far as they are derogated from by he present treaty.

"2d. It shall be optional with either party to pay to the other, within seven years, three millions of francs, in money or securities which may be issued for indemnities, and thereby to reduce the rights of the other as to privateers and prizes, to those of the most favored nation. And during the said term allowed for option, the right of both parties shall be limited by the line of the most favored nation.

"3d. The mutual guarantee in the treaty of alliance shall be so specified and limited, that its future obligation shall be, on the part of France, when the United States shall be attacked, to furnish and deliver at her own ports military stores to the amount of one million of francs; and, on the part of the United States, when the French possessions in America, in any future war, shall be attacked, to furnish and deliver at their own ports a like amount in provisions. It shall, moreover, be optional for either party to exonerate itself wholly of its obligation, by paying to the other, within seven years, a gross sum of five millions of francs, in money or such securities as may be issued for indemnities."

Mr. W. asked if he needed further proofs that not only the American Government, but the American negotiators, treated these obligations under the treaty as, in all respects, mutual, reciprocal, and equal; and if the fallacy of the argument that the United States had obtained to itself a valuable consideration for the release of these private claims in the release of itself from these obligations, was not utterly and entirely disproved by these facts? Was not the release of the obligations on the one side the release of them on the other? And was not the one release the necessary consideration for the other? How, then, could it be said, with any justice, that we sought our release at the expense of the claimants? There was no reasonable ground for such an allegation, either from the acts of our Government or of our negotiators. When the latter fixed a value upon our obligations as to the privateers and prizes, and as to the guarantee, in the same article they fixed the same price, to a franc, upon the reciprocal obligations of France; and when the former discharged our liability, by expunging the second article of the treaty of 1800, the same act discharged the corresponding liability of the French Government.

Here, then, Mr. W. said, must end all pretence of a valuable consideration for these claims passing to the United States from this source. The onerous obligations were mutual, reciprocal, and equal, and the respective releases were mutual, reciprocal, and equal, and simultaneous, and nothing could be fairly drawn from the act which operated these mutual releases to benefit these claimants.

Mr. W. said he was, then, necessarily brought back to the proposition with which he started in the commencement of his argument, that, if the United States were liable to pay these claimants, that liability must rest upon the broad ground of a failure by the Government, after ordinary, and, in this instance, extraordinary efforts to collect the money. The idea of a release of the claims for a valuable consideration passing to the Government had been exploded, and, if a liability was to be claimed on account of a failure to collect the money, upon what ground did it rest? What had the Government done to protect the rights of these claimants? It had negotiated from 1793 to 1798, with a vigilance and zeal and talent almost unprecedented in the history of diplomacy. It had sent to France minister after minister, and, upon several occasions, extraordinary missions composed of several individuals. Between 1798 and 1800, it had equipped fleets and armies, expended millions in warlike preparation, and finally sent forth its citizens to battle and death, to force the payment of the claims. Were we now to be told that our failure in these efforts had created a liability against us to pay the money? That the same citizens who had been taxed to pay the expenses of these long negotiations, and of this war for the claims, were to be further taxed to pay such of the claims as we had failed to collect? He could never consent to such a deduction from such premises.

But, Mr. President, said Mr. W., there is another view of this subject, placed upon this basis, which renders this bill of trifling importance in the comparison. If the failure to collect these claims has created the liability to pay them, that liability goes to the extent of the claims proved, and the interest upon them, not to a partial, and perhaps trifling, dividend. Who, then, would undertake to say what amount of claims might not be proved during the state of things he had described from the breaking out of the war between France and England, in 1793, to the execution of the treaty, in 1800? For a great portion of the period, the municipal regulations of France required the captured cargoes to be not confiscated, but paid for at the market value at the port to which the vessel was destined. Still the capture would be proved, the value of the cargo ascertained, before the commission which the bill proposes to establish; and who would adduce the proof that the same cargo was paid for by the French Government?

This principle, however, Mr. W. said, went much farther than the whole subject of the old French claims. It extended to all claims for spoliations upon our commerce, since the existence of the Government, which we had failed to collect. Who could say where the liability would end? In how many cases had claims of this character been settled by treaty, what had been collected in each case, and what amount remained upaid, after the release of the foreign Government? He had made an unsuccessful effort to answer these inquiries, so far as the files of the State Department would furnish the information, as he had found that it could only be collected by an examination of each individual claim; and this would impose a labor upon the Department of an unreasonable character, and would occupy more time than remained to furnish the information for his use upon the present occasion. He had, however, been favored by the Secretary of State with the amounts allowed by the commissioners, the amounts paid, and the rate of pay upon the principal, in two recent cases, the Florida treaty, and the treaty with Denmark. In the former instance, the payment was ninety-one and two-thirds per centum upon the principal, while in the latter it was but thirty-one and one-eighth per centum. Assume that these two cases are the maximum and minimum of all the cases where releases have been given for partial payments; and he begged the Senate to reflect upon the amounts unpaid which might be called from the national treasury, if the principle were once admitted that a failure to collect creates a liability to pay.

That in his assumption that a liability of this sort must go to the whole amount of the claims, he only took the ground contended for by the friends of this bill, he would trouble the Senate with another extract from the report of Mr. Livingston, from which he had before read. In speaking of the amount which should be appropriated, Mr. Livingston says:

"The only remaining inquiry is the amount; and on this point the committee have had some difficulty. Two modes of measuring the compensation suggested themselves:

"1. The actual loss sustained by the petitioners.

"2. The value of the advantages received, as the consideration, by the United States.

"The first is the one demanded by strict justice; and is the only one that satisfies the word used by the constitution, which requires "just compensation," which cannot be said to have been made when any thing less than the full value is given. But there were difficulties which appeared insurmountable, to the adoption of this rule at the present day, arising from the multiplicity of the claims, the nature of the depredations which occasioned them, the loss of documents, either by the lapse of time or the wilful destruction of them by the depredators. The committee, therefore, could not undertake to provide a specific relief for each of the petitioners. But they have recommended the institution of a board, to enter into the investigation, and apportion a sum which the committee have recommended to be appropriated, *pro rata*, among the several claimants."

"The committee could not believe that the amount of compensation to the sufferers should be calculated by the advantages secured to the United States, because it was not, according to their ideas, the true measure. If the property of an individual be taken for public use, and the Government miscalculate, and find that the object to which they have applied it has been injurious rather than beneficial, the value of the property is still due to the owner, who ought not to suffer for the false speculations which have been made. A turnpike or canal may be very unproductive; but the owner of the land which has been taken for its construction is not the less entitled to its value. On the other hand, he can have no manner of right to more than the value of his property, be the object to which it has been applied ever so beneficial."

Here, Mr. W. said, were two proposed grounds of estimating the extent of the liability of the Government to the claimants; and that which graduated it by the value received by the Government was distinctly rejected, while that making the amount of the claims the measure of liability was as distinctly asserted to be the true and just standard. He hoped he had shown, to the satisfaction of the Senate, that the former rule of value received by the Government would allow the claimants nothing at all, while he was compelled to say that, upon the broad principle that a failure to collect creates a liability to pay, he could not controvert the correctness of the conclusion that the liability must be commensurate with the claim. He could controvert, he thought successfully, the principle, but he could not the measure of damages when the principle was conceded. He would here conclude his remarks upon the points he had noticed, by the earnest declaration that he believed the passage of this bill would open more widely the doors of the public treasury than any legislation of which he had any knowledge, or to which Congress had ever yielded its assent.

Mr. W. said he had a few observations to offer relative to the mode of legislation proposed, and to the details of the bill, and he would trouble the Senate no farther.

His first objection, under this head, was to the mode of legislation. If the Government be liable to pay these claims, the claimants are citizens of the country, and Congress is as accessible to them as to other claimants who have demands against the treasury. Why were they not permitted, individually, to apply to Congress to establish their respective claims, as other claimants were bound to do, and to receive such relief, in each case, as Congress, in its wisdom, should see fit to grant? Why were these claims, more than others, grouped together, and attempted to be made a matter of national importance? Why was a commission to be established to ascertain their validity, a duty in ordinary cases discharged by Congress itself? Were the Senate sure that much of the importance given to these claims had not proceeded from this association, and from the formidable amount thus presented at one view? Would any gentleman be able to convince himself that, acting upon a single claim in this immense mass, he should have given it his favorable consideration. For his part, he considered the mode of legislation unusual and objectionable. His principal objections to the details were, that the second section of the bill prescribed the rules which should govern the commission in deciding upon the claims, among which "the former treaties between the United States and France" were enumerated; and that the bill contained no declaration that the payments made under it were in full of the claims, or that the respective claimants should execute a release, as a condition of receiving their dividends.

The first objection was predicated upon the fact that the bill covered the whole period from the making of the treaties of 1778, to that of the 30th September, 1800, and made the former treaties the rule of adjudication, when Congress, on the 7th July, 1798, by a deliberate legislative act, declared those treaties void, and no longer binding upon the United States or their citizens. It is a fact abundantly proved by the documents, that a large portion of the claims now to be paid, arose within the period last alluded to, and that treaties declared to be void should be made the law in determining what were and what were not illegal captures, during the time that they were held to have no force, and when our citizens were authorized by law to go upon the high seas, regardless of their provisions, Mr. W. said, would seem to him to be an absurdity which the Senate would not legalize. He was fully aware that the first section of the bill purported to provide for "valid claims to indemnity upon the French Government, arising out of illegal captures, detentions, forcible seizures, illegal condemnations, and confiscations;" but it could not be overlooked that illegal captures, condemnations, and confiscations, must relate entirely to the law which was to govern the adjudication; and if that law was a void treaty which the claimants were not bound to observe, and did not observe, was it not more than possible that a capture, condemnation, or confiscation, might, by compulsion, be adjudged illegal under the rule fixed by the bill, while that same capture, condemnation, or confiscation, was strictly legal under the laws which governed the commerce of the claimant when the capture was made? He must say that it appeared clear to his mind that the rule of adjudication upon the validity of claims of this description, should, in all cases, be the same rule which governed the commerce out of which the claims have arisen.

His second objection, Mr. W. said, was made more as a wish that a record of the intentions of the present Congress should be preserved upon the face of the bill than from any idea that the provision suggested would afford the least protection to the public treasury. Every day's legislation showed the futility of the insertion in an act of Congress of a declaration that the appropriation made should be in full of a claim; and in this, as in other like cases, should this bill pass, he did not expect that it would be, in practice, any thing more than an instalment upon the claims which would be sustained before the commission. The files of the State Department would contain the record evidence of the balance, with the admission of the Government, in the passage of this bill, that an equal liability remained to pay that balance, whatever it might be. Even a re-

lease from the respective claimants he should consider as likely to have no other effect than to change their future applications from a demand of legal right, which they now assume to have, to one of equity and favor; and he was yet to see that the latter would not be as successful as the former. He must give his vote against the bill, whether modified in that particular or not, and he should do so under the most full and clear conviction that it was a proposition fraught with greater dangers to the public treasury than any law which had ever yet received the assent of Congress.

When Mr. WRIGHT had concluded,

Mr. WEBSTER rose and expressed a hope that he might, according to the usual courtesy of the Senate, be allowed to reply, once for all, to the arguments against the bill. If no other gentleman was about to speak in opposition, he was prepared now to go on, although the Senate was thin, in the hope that the vote might be taken either to-day or to-morrow. But he was willing to give way to any Senator who was desirous to be heard on the subject.

Mr. KING, of Georgia, then rose and said, if the Senator from Massachusetts would pardon him, he would, before the question was taken on engrossing the bill, say something in justification of the vote he should give. He did not, however, propose to go fully into the subject. He had made no regular preparation with a view of doing so. But some of those friends with whom he had been very much in the habit of acting, especially on questions requiring a defence of the public treasury, had advocated the claims of those interested in the passage of the bill, with a degree of labor, zeal, and apparent earnestness of feeling, which afforded the best possible evidence of their entire conviction of the propriety of the course they had adopted; and he therefore felt it a respect due to them, as well as a justification of himself, to give at least some of the reasons why he should differ with them upon the present occasion.

Mr. K. said he should be brief, for the reason first stated. In fact, he did not think the bill called for a very wide range of discussion; for, although the history of the claims was a long one, and the facts and documents connected with them numerous, yet it would be seen from the discussion, so far as heard, that the facts necessary to be known and understood, to direct our judgment upon the bill, were neither numerous nor controverted; on the contrary, the difference in the minds of Senators, upon the merits of the claims, would result from a difference of conclusion from the same admitted facts, and not from any controversy about the facts themselves.

What was the proposition, by the establishment of which the advocates of the bill sought to enforce upon the Senate the propriety of its passage? If he understood it, it was this: that France, on the 30th of September, 1800, was indebted to citizens of the United States (the claimants) at least five millions of dollars. That the United States were at the same time under treaty stipulations to France, onerous to them, and valuable to France; and that the United States, having charge of the claims of their citizens, released these claims to France, in consideration of a release of their own treaty stipulations to that nation. Hence it was contended that the United States are liable to their own citizens for their claims on France, upon the same principle that an agent is liable to his principal if he appropriates the effects of the latter to his own use. The doctrine was sound enough, if the proposition were established. But, in prosecuting an inquiry into the truth of the proposition, he should inquire, and, if possible, ascertain--

1st. Whether, in point of fact, the Government of France was, according to the existing rules of national law, indebted to the claimants five millions, or any other sum, on the 30th of September, 1800?

2d. Whether, in point of fact, the United States were, at the same date, bound by treaty stipulations, onerous to them, and valuable to France, which would afford a consideration for the release of the claims?

And it might not be unimportant to inquire, in the third place, whether, if these claims once existed and were released by the acts of our Government in its regular administration, any responsibility should attach to the Government for obeying the necessary exigencies of State policy?

Mr. K. returned to the first inquiry. Was France indebted to the claimants on the 30th September, 1800? That France had committed spoliations which made her liable at one time to claimants, was not disputed on either side, but insisted on by both. The claims, he said, arose as well by a reckless violation of the laws of nations as by repeated and sometimes admitted infractions of the treaty of commerce between the two countries, dated the 6th of February, 1778. Several of the articles of this treaty, connected with these claims, had just been read by his friend from New York, [Mr. WRIGHT.] The article most material he (Mr. K.) read.

It is as follows: "Article 23d. It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with the Most Christian King or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid to sail with the ships and merchandise aforementioned, and to trade with the same liberty and security, from the places, ports, and harbors of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince, or under several. And it is hereby stipulated that free ships shall give a freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that, although they be enemies of both or either party, they are not to be taken out of that free ship, unless they are soldiers, and in actual service of the enemies."

Another article in the treaty provided that a sea letter of a particular form, specified in the article, should, on being exhibited, determine the neutral or friendly character of the vsesel. This article was violated in the most flagrant manner, by an unexpected decree, requiring what they called a "role d'equipage," which took hundreds by surprise, who had prepared themselves with a letter in the form prescribed by the treaty. In short, France first violated the treaty, as seemed on all hands admitted, and continued her depredations from 1793 till the treaty of 1800. Nor was our Government remiss in attention to the claims of its citizens. Every effort was made to recover indemnity for them. Envoy after envoy was sent to the French court to negotiate on this subject; but they were subjected to the most degrading conditions as the price of the privilege of negotiating, and treated with a contempt only equalled by that which was

paid to our flag; and at last virtually kicked out of the country. These indignities were submitted to until—nay, long after—forbearance ceased to be a virtue; and, finding negotiation hopeless, we determined to resort to force.

Mr. K. insisted that the spoliations which were the subject of the bill had caused a war between the two countries—a war, to be sure, of limited duration, but still a public war, by which the claims were extinguished. The acts of a hostile nature passed by Congress in 1798 had all just been read or referred to by his friend from New York, the most material of which were those authorizing the capture of the armed vessels of France. On the 28th day of May, in that year, Congress passed an act authorizing the armed vessels of the United States to capture any armed vessel of France which had committed depredations on our commerce, or which might be found cruising about our coasts for that purpose. This act has been called defensive, barely, in its character. Admit it to be so, said Mr. K., and what is to be said of the act of 9th July, 1798? This act authorizes the capture of French armed vessels any where on the high seas. In other words, it authorized a general maritime war with France.

And did these acts, inquired Mr. K., end in idle ceremony? Not at all, sir. The President, as authorized, issued his proclamation to carry them into effect; and from that time the armed forces of the two nations understood perfectly well the hostile relations in which their respective nations stood to each other, and acted accordingly. When their ships met they instantly cleared for action; some of the most desperate conflicts ensued—their masts were cut off by the dexterity of our gunners—their hulls were shattered into useless floating wrecks—their decks were drenched in the blood of their seamen—conquered, captured, carried into port, confiscated, sold, and distributed as prizes. And yet, gentlemen say there was no war in this! The Senator from New York, who has just taken his seat, in referring to this state of things, asked if it could be called peace? "Certainly," he was answered from the seat of the Senator from Massachusetts. "Certainly," we may call things by what names we please, but, in nature, they are not changed by the names we arbitrarily give them. We may call a declaration of war a proclamation of neutrality. We may call a challenge to mortal conflict a love-letter or a billetdoux. Or a bloody war may be called, as in this case, "a mere misunderstanding." Yet, these things would remain unchanged in their natures and consequences by the names assigned to them.

But, inquired Mr. K., why is it that those hostilities, carried on by the authority of the Government, did not constitute war? He knew not what reason the Senator from Massachusetts, [Mr. WEBSTER,] who was to conclude the discussion, might assign; but other Senators had assigned no other reason than that "the negotiators said there had been no war." They might as well have "said" that there never was a flood. They might as well have "said" that the battle of Waterloo was a friendly salutation between the contending armies. Their sayings could not change war into peace. But the truth was, said Mr. K., the French negotiators, when the claims were first presented, "said" there had been war, "and that any indifferent nation would say so," and that, consequently, "no indemnities could be claimed."

It makes but little difference, however, said Mr. K., what these gentlemen said in the politeness of their diplomacy, striving to forget the past, and mutually seeking the advantage in reviving an extinguished treaty. Mr. Vattel said, when he wrote his book on the law of nations, that "war is that state in which we prosecute our rights by force." Public war being that prosecuted by national authority. Were not these acts of hostility by national authority, and in the prosecution of our rights by force? Certainly they were. In fact, it was war, in a very unqualified sense. It was the forcible collision of the armed forces of the two nations, by authority of each. The claimants, then, on the 30th September, 1800, had no claim which we could, with technical right, insist on, and France never surrendered this right to disclaim them, or offered to surrender it, unless upon terms she thought advantageous to her.

But it was said that if these claims were extinguished by war, they were revived by negotiation. Mr. K. inquired how they could be revived by mere negotiation? The envoys could not revive an extinguished claim by merely insisting on it, or taking it into notice in negotiating a treaty. They might as well have undertaken to revive the edict of Nantz. It was a matter they could not control without the approbation of the ratifying authority. It was of no consequence upon what principle they negotiated, but we should inquire upon what principle the Senate ratified. But it is said they were recognised as a subject of negotiation in the second article of the treaty. Very well, sir, and did the Senate ratify the second article? Not at all. Their first act, when the treaty was presented, was to put the sponge upon it. They said, in effect, let the second article be blotted from the instrument. Could the Senate have disclaimed, more emphatically, the notice which had been taken of the subject? The negotiators had taken the subject into consideration, and it was necessary to dispose of it. They therefore said, in the second article, that, "not being able to agree" upon the subject, they postponed it to a more convenient time. The second article expunged by the Senate, the treaty was sent back to Napoleon, and what did he do? Why, he agreed to the retrenchment of the second article, "provided"—provided what, sir?—that the respective nations would pay the claims of their citizens, respectively? Not at all, sir. He never thought of such a thing. For France had never paid its citizens for the claims they were at the same time setting up against us. But he agreed to the retrenchment of the second article, provided each party renounced the respective "pretensions which were the object of the second article." "Pretensions" was a very slighting term to use in reference to a valid debt. The pretensions in his mind, most likely, were the claims of mutual guaranty, and the privilege of neutrals; but whatever they were, this was only another mode for disposing of them as not sustainable. So we see, sir, that the ratifying power acted on the principle that the claims were extinguished by hostilities, whatever the negotiators may have said or done in the matter.

Mr. K. said that, after the second article was expunged, the matter stood precisely in the predicament in which it would have stood if the claims had not been noticed in the treaty. And he supposed it would hardly be contended that, if national hostilities had existed, and peace restored by treaty, without noticing claims which were the cause of hostilities, these claims would not be extinguished.

But it is said our envoys alleged that this class of claims was due, and insisted on its payment. Certainly they did, sir, and on many things else they did not obtain. He understood his friend from Maine, [Mr. SHEPLEY,] who dwelt on this circumstance, had much of the confidence of his constituents as a lawyer, as well as a politician. If so, he would ask his friend if he had not often insisted strongly that thousands were due to his client when he knew there was not due to him one cent? Doubtless he had, and did only his duty in doing so. The Government and envoys acted on a similar principle. They were representing American citizens, and they did the best they could for them; but not being able to recover indemnities from France, it was a little hard their very diligence should be used as a reason for charging the United States with the claim.

But it is further said that the French also acknowledged these claims. Yes, sir, said Mr. K., and how did they acknowledge them? They acknowledged them, always coupled with a condition that would at the same time extinguish them. They would negotiate for the payment of these claims, provided we would revive an extinguished treaty, and allow them to put their own price on its supposed obligations. What kind of acknowledgment was this? and they certainly never made any other. You, sir, said Mr. K., make claim on me for ten millions of dollars. Very well; I may safely answer, "your account is a false one, but I will acknowledge it, if you will permit me to produce a false receipt for it." "Your debt is barred or extinguished; but I have claims of greater amount against you of a similar character, and I have no objection to settle, if I can bring you in debt." Various offers were made on both sides, but they were all, when closely examined, of this nature; for they were always "to renew" the treaties, which implied their previous extinction; and these offers of renewal were always accompanied with modifications and conditions, though advantageous to the proposer. The claims, then, Mr. K. insisted, had been extinguished by the hostile relations between the two countries, and had never been revived either by negotiation or acknowledgment.

Mr. K. then went into the second subject of inquiry. Were the United States, on the 30th of September, 1800, bound by treaty stipulations to the Government of France, onerous to the one and valuable to the other? Mr. K. thought not. The conduct of France had perhaps sufficiently discharged the United States from all the obligations of the treaties. But, to put the matter beyond doubt, in a judicial point of view, Congress, on the 7th July, 1798, passed an act declaratory on the subject, by which (after reciting in the preamble as a justification of the act the frequent violations of the treaties by France) it was enacted, "That the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France, and that the same shall not henceforth be considered as legally obligatory on the Government or citizens of the United States."

One would suppose, said Mr. K., that this act would settle the matter. But, to his utter astonishment, this right in the United States as an independent party to the treaty had been denied. It was said the consent of both parties must first be obtained. There might be some modification of the right as between the United States and its citizens claiming the benefit of a treaty; or the right of Congress to repeal a treaty by ordinary legislation, without reasons, might be questioned. But this was a judicial act of an independent sovereign Power, containing the reasons for the decision, which reasons all acknowledged to be perfectly true. And when gentlemen were so general in their denial of the power of Congress on this subject as to include the act in question, he scarcely knew how to treat such a position. What an extraordinary position we should be placed in. Having treaties of peace and commerce with all the world, any nation with whom we had made treaties might violate them at pleasure, drive our commerce from the ocean, and even bring war to the Capitol, and the United States could not move against the offender without breaking the faith of treaties. This would be a new principle to introduce into the law of nations.

From the time of Grotius up to the present time, it had, he thought, been acknowledged a universal principle of national law, that in cases of compact between independent nations, there being no common judge, each party had the right to judge for itself, "as well of the infraction as of the mode and measure of redress." This principle has been much quoted of late to sustain the rights of the States of the Union to judge of an infraction of the constitution. He never could see the application of this principle to the rights of the States in their relation to the Federal Government, but when applied to the United States and France, two nations entirely independent in all their exterior relations, the principle was plain, and the application easy. Mr. K. said he had hastily turned to one authority on national law, which he believed spoke the sentiments of all elementary writers on the subject. [Mr. K. then read from Vattel, book 11, ch. 13, p. 213.]

"Treaties contain promises that are perfect and reciprocal. If one of the parties fail in his engagements, the other may compel him to fulfil them. A perfect promise confers a right to do so. But if the latter has no other expedient but that of arms to force his ally to the performance of his promises, he will sometimes find it more eligible to cancel the promises on his own side, also, and dissolve the treaty. He has undoubtedly a right to do this, since his promises were made only on condition that the ally should, on his part, execute every thing which he had engaged to perform. The party, therefore, who is offended or impaired in those particulars which constitute the basis of the treaty, is at liberty to choose the alternative of either compelling a faithless ally to fulfil his engagements, or of declaring the treaty dissolved by his violation of it. On such an occasion, prudence and wise policy will point out the line of conduct to be pursued."

It cannot be necessary, said Mr. K., to insist that the United States possess the same rights on this subject with other independent nations; and he presumed it would not be denied that the reasons set forth in the act for dissolving the treaty are perfectly true, and constitute a legal justification of the measure. It might safely be submitted to the Senate as an original question, whether France had not, by her violation of the treaty, justified its nullification by us? The author just quoted, said Mr. K., on another page, cites Grotius to prove that "every article of a treaty carries with it a condition, by the non-performance of which the treaty is wholly cancelled." I ask Senators, then, said Mr. K., whether France did not first violate the treaty? That she did so, is the very first position established by them. And here the advocates of the bill found themselves in this strange predicament: That their first position to establish a claim against France proved at the same time that the United States were not responsible for it. Mr. K. would not dwell longer on this branch of the subject. He considered the treaty clearly cancelled, as well by the acts of France as by its nullification by the United States for sufficient causes. He therefore concluded that, on the 30th of September, 1800, the United States were not bound by treaty stipulations to France, and therefore could have received no consideration for the release of the claims in question.

But it is said that the treaty stipulations were valuable at the date referred to, because the American negotiators offered for them 8,000,000 francs; and he would be led to think, said Mr. K., from the confidence with which gentlemen refer to this offer, that they had something almost equivalent to the promissory note of the Government for at least this amount. He had already remarked that these offers in negotiation determined nothing, unless reduced to treaty and ratified. But when we examined this "offer," what kind of an offer was it? It was an offer which, if accepted by the French Government, would have brought them eight or nine millions of dollars in debt! It is said we offered five millions of francs for a release from the stipulations of the 11th article of the treaty of 1778, which guarantied to France her West India islands; and three millions

for the privilege of her privateers secured by the 17th article. The better to understand the value of this offer, said Mr. K., let us look to the instructions which preceded it, and with an evident reference to which it was made. These instructions say: "On the part of the United States, instead of troops or ships of war, it would be convenient to stipulate for a moderate sum of money, or quantity of provisions, at the option of France. The provisions to be delivered at our ports in any future defensive war," &c. It was the opinion of our cabinet at that time, that the guarantee in the 11th article only extended to a defensive war, and no treaty renewing it on any other than this construction would have been ratified by the United States. This offer, then, was to renew the mutual guarantee, but at the same time to settle its construction and its value. For the privileges under the 17th article we should have paid three millions, for those privileges were needed by us in our commercial relations with England. But the five millions were contingent upon a future defensive war. This part of the arrangement was as valuable to one party as the other, and in fact the contingency had not yet happened, which would have jusified the claim. So then we see this valuable offer, said Mr. K., was an offer of three millions of francs certain, and five millions contingent, that we might receive fifty millions certain, by way of indemnities. Well might we propose to renew the treaties on such terms. It was not very surprising that France did not accept the generous offer.

Mr. K. said it only remained to inquire whether there was any just cause of complaint against the Government because the attitude it assumed towards France may have released these claims. To admit this would allow individuals to control the policy of nations. If these claims were so released, it was only one of those individual sacrifices constantly made to State policy, in the necessary operations of Government. We had done every thing that could be reasonably required to secure their claims. We had spent large sums in missions and negotiations before we resorted to hostile measures, which were, of course, attended with heavy expense, Perhaps, said Mr. K., if we were to enter into a strict account with these claimants, we have spent more money in pursuit of their claims than the amount at which they are estimated, without computing the blood of our citizens, which may be estimated beyond millions of treasure. It is for this, among other reasons, said Mr. K, that war always relinquishes the claims for which it is declared. The blood of a single citizen satisfies millions of debt.

The attitude which the United States assumed then was necessary to the permanent policy and honor of the country; and all private interests must yield to it. In fact, said Mr. K., it has been clearly shown by the Senator from New Hampshire, [Mr. HILL,] that their claims, under no circumstances, would ever have been worth one cent. It would be recollected that we did get the promise, in the treaty of 1800, of indemnity for all prizes not definitively condemned. Did Bonaparte pay these claims for which we held his bond in the treaty? Not at all, sir. Not a dollar of them would he pay to us; and we never should have got a dollar from him, even for these acknowledged indemnities, had not Louisiana been forced, as it were, to auction, to prevent it from falling into the hands of the English. And not even then, sir, if we had not been cheated out of the amount by French diplomacy, by which it was gratuitously paid by ourselves, and ten millions besides. Bonaparte told his minister to take fifty millions of francs. He obtained eighty, with the stipulation that twenty millions were to be deducted to satisfy indemnities under the treaty of 1800. Bonaparte was delighted at the bargain; but mark what he said to Marbois, his agent, when the treaty was reported to him. "I would that these twenty millions be paid into the treasury. Who authorized you to part with the money of the State?" He was reminded that he still would get ten millions more than he asked, besides satisfying the Americans. "Ah, 'tis true," said he, "the treaty does not leave one any thing to desire. Sixty millions for an occupation that would not, perhaps, last a day," &c. Is it likely, then, inquired Mr. K., that when he had uniformly refused to satisfy what he had solemnly promised to pay "for captures not definitively condemned," that he would have paid for captures every one of which had been condemned, and for which any treaty stipulation had been refused? Sir, said Mr. K., the claims were not worth a mill in the dollar, at any time. Bonaparte pay such claims! No, sir. He, with his drum-headed justice and gunpowder administration, robbed every body and paid no body. If these views be just, said Mr. K., however the claims may have been released, the claimants lost nothing, for France never would have paid any thing for these claims, every one of which had received the condemnation of her tribunals in some form or other, whether rightly or not. In the last treaty we had to exclude all cases condemned, however just our complaints of the proceedings under which the condemnations were made.

Mr. K. concluded, then, that France owed no part of these claims on the 30th September, 1800, which she ever would have paid, or that, in strictness, could be insisted on. That the United States, on the same date, were under no treaty stipulation to France, a release from which would afford a consideration for the claims. Claims and treaties, he said, had been extinguished, and no act had ever been done by the treaty-making power in this country to revive them. These views he thought an entire answer to the claims.

As to the nature of these claims, said Mr. K., which had been already referred to, he must say they were not such as appealed strongly to our sympathies. There were few, it was said, in the hands of the original losers, and they were mostly in the hands of ensurance companies and underwriters. These, said Mr. K., are the weakest of all possible claims. It was known that, in those days, profits were enormous, and increased by the risk, which was known to be great; and the risk and profit regulated the premiums, which were also excessively high. If, then, the loss should be returned, the ensurer was enriched by high premiums, whilst he had the loss returned to him. This he thought a tolerably fair business for ensurers. We are told, to be sure, of "widows and orphans," who await the tardy justice of Government. He thought it likely there might be some, and some very rich ones, too. The widows and orphans of the original losers, however, he expected, were few in number, and only thrust forward in the foreground of the picture, whilst rich ensurers, underwriters, and speculators, in great numbers, lay back, concealed in its more remote and deepening shades.

Mr. K. said he had been unable to bring his mind to the support of this bill. It was but right, however, that he should confess, in conclusion, (although he could not say he was prejudiced,) he had a powerful weight of presumptive evidence to get rid of before he could look into details to get at the original merits of the claim. He said it might be safely assumed that no Government in the world was more just to the claims of its citizens than that of the United States; and if, at any time, a claim was not allowed when pressed upon it, the refusal was a strong circumstance against it. This claim had been before Congress for thirty-four years, and had not yet got through both Houses of Congress. And during a portion of that period it was known that we were not

looking out for ways and means to defray the expenses of Government, but actually looking out for ways and means to absorb an apprehended surplus. I would say, then, (said Mr. K.,) that, if this claim was refused by Government from 1800 to 1824, it might reasonably be put down as doubtful. If from 1824 to 1832, we might put it down as very doubtful; and if passed through the generous year of 1832 without being allowed, we might with much reason venture to consider it desperate, and unworthy the attention of any tribunal or Government. He had not, however, depended entirely upon these strong circumstances against the claims, but had listened attentively to the speeches for and against them, and had revived his recollection of the most material historical facts upon which they rested, and his first unfavorable impressions were fully confirmed, and he should vote against the bill. Though he fully concurred in the sentiments of the Senator from South Carolina, that if, notwithstanding the age and amount of the claims, they were really just, and the honor of the Government were involved in withholding them, the appropriation should be made, if it took the last dollar in the treasury, and forced us even to make new contributions to satisfy it.

After Mr. KING had taken his seat,

Mr. BIBB expressed a wish to address the Chair; when,

On motion of Mr. KING, of Alabama,

The Senate adjourned.

FRIDAY, JANUARY 9.

Among the bills taken up to-day, was that for the relief of

LOAMI BALDWIN.

[The object of this bill was to make compensation to Mr. Baldwin for services rendered during the administration of Mr. Adams, as a civil engineer, in the construction of two dry docks at Charleston, S. C.]

Mr. HILL moved to lay the bill on the table; which was not agreed to.

Mr. HILL and Mr. BENTON then opposed the bill on the ground that Mr. Baldwin was an engineer in the employment of the Government, at an annual salary of $4,000; that this allowance would be double pay for services rendered by a salaried officer; that the claim had been disallowed by the Secretary, and afterwards by the auditor; and that, if a contract had been made with Mr. Baldwin for this service, it was no doubt in writing, and ought to be shown.

Some further remarks were made by Messrs. SOUTHARD, FRELINGHUYSEN, CALHOUN, POINDEXTER, and CLAYTON, in favor of the bill.

It was said by them that an express contract was made with Mr. Baldwin by the then Secretary of the Navy (Mr. Southard) for the performance of this duty, which was an extra service; that he was not an officer of the Government, because he held no commission; but that, if he was, it had been the usage of the Government to pay its officers extra compensation for any services which they were called on to render, out of the line of their ordinary duties; that the justice of this claim was enhanced, in consequence of the contract which had been made with Mr. Baldwin, to pay him five dollars a day for the time employed in performing the duty assigned him.

The question being on the engrossment of the bill for a third reading,

Mr. HILL demanded the yeas and nays, which were ordered; but before the question was taken,

Mr. BENTON renewed the motion to lay the bill on the table, with a view to make some further examination into it.

The motion was then agreed to.

FRENCH SPOLIATIONS.

The Senate resumed the consideration of the bill making compensation for French spoliations prior to 1800.

Mr. BENTON, being entitled to the floor, rose and addressed the Chair as follows:

In rising to give an expression of my views and feelings on the measure proposed by this bill, I find, sir, that my labor has been very much abridged by the clear and enlightened views which we have had presented to us on this important subject, by the gentlemen from New Hampshire, New York, and Georgia. To the former of these gentlemen, and, indeed, to all of them, I confess that I lie under the deepest personal obligation: they have done justice to the subject; they have placed it in its real light, and exhibited it in its proper colors; at the same time, I labor under a public obligation to those gentlemen, because, sir, they have done much to enlighten the American people on this momentous, this deeply important question.

The whole stress of the question lies in a few simple facts, which, if disembarrassed from the confusion of terms and conditions, and viewed in their plain and true character, render it difficult not to arrive at a just and correct view of the case. The advocates of this measure have no other grounds to rest their case upon than an assumption of facts; they assume that the United States lay under binding and onerous stipulations to France; that the claims of this bill were recognised by France; and that the United States made herself responsible for these claims, instead of France; took them upon herself, and became bound to pay them, in consideration of getting rid of the burdens which weighed upon her. It is assumed that the claims were good when the United States abandoned them; and that the consideration, which it is pretended the United States received, was of a nature to make her fully responsible to the claimants, and to render it obligatory upon her to satisfy the claims.

The measure rests, sir, entirely upon these assumptions; but, sir, I shall show that they are nothing more than assumptions; that these claims were not recognised by France, and could not be, by the law of nations; they were good for nothing when they were made; they were good for nothing when we abandoned them. The United States owed nothing to France, and received no consideration whatever from her, to make us responsible for payment. What I here maintain, I shall proceed to prove, not by any artful chain of argument, but by plain and historical facts.

Let me ask, sir, on what grounds is it maintained that the United States received a valuable consideration for these claims? Under what onerous stipulations did she lie? in what did her debt consist, which it is alleged France gave up in payment for these claims? By the treaty of '78, the United States was bound to guaranty the French American possessions to France; and France, on her part, guarantied to the United States her sovereignty and territory. In '93 the war between Great Britain and France broke out, and this rupture between those nations immediately gave rise to the question how far this guarantee was obligatory upon the United States? Whether we were bound by it to protect France on the side of her American possessions against any hostile attack of Great Britain, and thus become involved as subalterns in a war in which we had no concern or interest whatever? Here, sir, we come to the point at once; for if it should appear that we were not bound by this guarantee to become parties to a distant European war, then, sir, it will be an evident, a decided result and conclsion, that we were under no obligation to France, we owed her no debt on account of this guarantee; and, plainly enough, it will follow, we received no

valuable consideration for the claims of this bill, when France released us from an obligation which it will appear we never owed. Let us briefly see, sir, how the case stands.

Sir, France, to get rid of claims made by us, puts forward counter claims under this guarantee, proposing by such a diplomatic manœuvre to get rid of our demand, the injustice of which she protested against. She succeeded, and both parties abandoned their claims. And is it now, sir, to be urged upon us that, on the grounds of this astute diplomacy, we actually received a valuable consideration for claims which were considered good for nothing? France met our claims, which were good for nothing, by a counter claim, which was good for nothing, and when we found ourselves thus encountered, we abondoned our previous claim, in order to be released from the counter one opposed to it. After this, is it, I would ask, a suitable return for our overwrought anxiety to obtain satisfaction for our citizens, that any one of them should, some thirty years after this, turn round upon us and say: "now you have received a valuable consideration for our claims; now, then, you are bound to pay us!" But this is in fact, sir, the language of this bill. I unhesitatingly say that the guarantee, (a release from which is the pretended consideration by which the whole people of the United States are brought in debtors to a few ensurance offices to the amount of millions,) this guarantee, sir, I affirm, was good for nothing. I speak on no less authority, and in no less a name, than that of the great Father of his Country, Washington himself, when I affirm that this guarantee imposed upon us no obligations towards France. How, then, shall we be persuaded that, in virtue of this guarantee, we are bound to pay the debts and make good the spoliations of France?

When the war broke out between Great Britain and France in 1793, Washington addressed to his cabinet a series of questions, inquiring their opinions on this very question, how far the treaty of guarantee of 1778 was obligatory upon the United States, intending to take their opinions as a guidance for his conduct in such a difficult situation. [Here the honorable Senator read extracts from Washington's queries to his cabinet, with some of the opinions themselves.]

In consequence of the opinions of his cabinet concurring with his own sentiments, President Washington issued a proclamation of neutrality, disregarding the guarantee, and proclaiming that we were not bound by any preceding treaties to defend American France against Great Britain. The wisdom of this measure is apparent. He wisely thought it was not prudent our infant Republic should become absorbed in the vortex of European politics, and therefore, sir, not without long and mature deliberation how far this treaty of guarantee was obligatory upon us, he pronounced against it; and in so doing he pronounced against the very bill before us; for the bill has nothing to stand upon but this guarantee; it pretends that the United States is bound to pay for injuries inflicted by France, because of a release from a guarantee by which the great Washington himself solemnly pronounced we were not bound! What do we now behold, sir? We behold an array in this House, and on this floor, against the policy of Washington! They seek to undo his deed; they condemn his principles; they call in question the wisdom and justice of his wise and paternal counsels; they urge against him that the guarantee bound us, and what for? What is the motive of this opposition against his measures? Why, sir, that this bill may pass; and the people, the burden-bearing people, be made to pay away a few millions, only a few millions, sir, in consideration of obligations which, after mature deliberation, Washington pronounced not to lie upon us!

I think, sir, enough has been said to put to rest for ever the question of our obligations under this guarantee. Whatever the claims may be, it must be evident to the common sense of every individual, that we are not and cannot be bound to pay them in the stead of France, because of a pretended release from a guarantee which did not bind us; I say did not bind us, because, to have observed it, would have led to our ruin and destruction, and it is a clear principle of the law of nations, that a treaty is not obligatory when it is impossible to observe it. But, sir, leaving the question whether we were made responsible for the debts of France, whether we were placed under an obligation to atone to our own citizens for injuries which a foreign Power had committed; leaving this question as settled, (and I trust settled for ever,) I come, sir, to consider the claims themselves, their justice, and their validity. And here, sir, the principle of this bill will prove, on this head, as weak and untenable—nay, more—as outrageous to every idea of common sense, as it was on the former head. With what reason, I would ask, sir, can gentlemen press the American people to pay these claims, when it would be unreasonable to press France herself to pay them? If France, who committed the wrong, could not justly be called upon to atone for it, how in the world, sir, can the United States now be called upon for this money? In 1798, the treaty of peace with France was virtually abolished by various acts of Congress authorizing hostilities, and by proclamation of the President to the same effect; it was abolished on account of its violation by France; on account of those depredations which this bill calls upon us to make good. By those very acts of Congress we sought satisfaction for these very claims; and, having done so, it was too late afterwards to seek fresh satisfaction by demanding indemnity. There was war, sir, as the gentleman from Georgia has clearly shown—war on account of these spoliations, and when we sought redress by acts of warfare, we precluded ourselves from the right of demanding redress by indemnity. We could not, therefore, justly urge these claims against France, and I therefore demand, sir, how can they be urged against us? What, sir, are the invincible arguments by which gentlemen establish the justice and validity of these claims? For, surely, before we consent to sweep away millions from the public treasury, we ought to hear at least some good reasons. Let me examine their good reasons. The argument, sir, to prove the validity of these claims, and that we are bound to pay them, is this: France acknowledged them, and the United States took them upon herself; that is, they were paid by way of offset, and the valuable consideration the United States received was a release from her pretend ed obligations! Now, sir, let us see how France acknowledged them. These very claims, sir, were denied, resisted, and rejected, by every successive Government of France! The law of nations was urged against them; because, having engaged in a state of war on the account of them, we had no right to a double redress—first by reprisals, and afterwards by indemnity! Besides, France justified her spoliations on the ground that we violated our neutrality; that the ships seized were laden with goods belonging to the English, the enemies of France, and it is well known, sir, that, in ninety-nine cases out of a hundred, this was the fact, that American citizens lent their names to the English, and were ready to risk all the dangers of French spoliation for sake of the great profits, which more than covered the risk. And, in the face of all these facts, we are told, sir, that the French acknowledged the claims, paid them by a release, and we are now bound to satisfy them! And how is this proved, sir? Where are the invincible arguments by which the public treasury is to be emptied? Hear them, sir, if it is possible even to

hear them with patience! When we urged these claims, the French negotiators set up a counter claim, and to obtain a release from this, we abandoned them! Thus, thus it is, sir, that the French acknowledged these claims; and, on this pretence, because of this diplomatic cunning and ingenuity, we are now told that the national honor calls on us to pay them! Was ever such a thing heard of before? Why, sir, if we pass this bill, we shall deserve eternal obloquy and disgrace from the whole American people. France, after repeatedly and perseveringly denying and resisting these claims, at last gets rid of them for ever by an ingenious trick, and by pretending to acknowledge them, and now her debt (if it was a debt) is thrown upon us, and, in consequence of this little trick, the public treasury is to be tricked out of several millions! Sir, this is monstrous! I say it is outrageous! I intend no personal disrespect to any gentleman by these observations, but I must do my duty to my country, and I repeat it, sir, this is outrageous!

It is streneously insisted upon, and appears to be firmly relied upon by gentlemen who have advocated this measure, that the United States has actually received from France full consideration for these claims; in a word, that France has paid them! I have, sir, already shown, by historical facts, by the law of nations, and, further, by the authority and actions of Washington himself, the Father of his Country, that we were placed under no obligations to France by the treaty of guarantee, and that therefore a release from obligations which did not exist, is no valuable consideration to all! But, sir, how can it be urged upon us that France actually paid us for claims which were denied and resisted, when we all know very well that, for undisputed claims, for claims acknowledged by treaty, for claims solemnly engaged to be paid, we could never succeed in getting one farthing! I thank the Senator from New Hampshire, [Mr. HILL,] for the enlightened view he has given on this case. What, sir, was the conduct of Napoleon with respect to money? He had bound himself to pay us twenty millions of francs, and he would not pay one farthing! And yet, sir, we are confindetly assured by the advocates of this bill that these claims were paid to us by Napoleon! When Louisiana was sold he ordered Marbois to get fifty millions, and did not even then, sir, intend to pay us out of that sum the twenty millions he had bound himself by treaty to pay. Marbois succeeded in getting thirty millions of francs more from us, and from this the twenty millions due was deducted; thus, sir, we were made to pay ourselves our own due, and Napoleon escaped the payment of a farthing. I mean to make no reflection upon our negotiators at that treaty; we may be glad that we got Louisiana at any amount; for if we had not obtained it by money; we should soon have possessed it by blood: the young West, like a lion, would have sprung upon the delta of the Mississippi, and we should have had an earlier edition of the battle of New Orleans. It is not to be regretted, therefore, that we gained Louisiana by negotiation, although we paid our debts ourselves in that bargain. But, sir, Napoleon absolutely scolded Marbois for allowing the deduction of twenty millions out of the sum we paid for Louisiana, forgetting that his minister had got thirty millions more than he ordered him to ask, and that we had paid ourselves the twenty millions due to us under treaty. Having such a man to deal with, how can it be maintained on this floor that the United States has been paid by him the claims in this bill, and that therefore the treasury is bound to satisfy them? Let Senators, I entreat them, but ask themselves the question, what these claims were worth in the view of Napoleon, that they may not form such an unwarranted conclusion as to think he ever paid them. Every Government of France which preceded him had treated them as English claims, and is it likely that he who refused to pay claims subsequent to these, under treaty signed by himself, would pay old claims anterior to 1800? The claims were not worth a straw; they were considered as lawful spoliations; that by our proclamation we had broken the neutrality; and, after all, that they were incurred by English enterprises, covered by the American flag. It is pretended he acknowledged them! Would he have inserted two lines in the treaty to rescind them, to get rid of such claims, when he would not pay those he had acknowledged?

To recur once more, sir, to the valuable consideration which it is pretended we received for these claims. It is maintained that we were paid by receiving a release from onerous obligations imposed upon us by the treaty of guarantee, which obligations I have already shown that the great Washington himself pronounced to be nothing; and therefore, sir, it plainly follows that this valuable consideration was—nothing!

What, sir! Is it said we were released from obligations? From what obligations, I would ask, were we relieved? From the obligation of guarantying to France her American possessions; from the obligation of conquering St. Domingo for France! From an impossibility, sir! for do we not know that this was impossible to the fleets and armies of France, under Le Clerc, the brother-in-law of Napoleon himself? Did they not perish miserably by the knives of infuriated negroes and the desolating ravages of pestilence? Again, we were released from the obligation of restoring Guadaloupe to the French; which also was not possible unless we had entered into a war with Great Britain! And thus, sir, the valuable consideration, the release by which these claims are said to be fully paid to the United States, turns out to be a release from nothing! a release from absolute impossibilities; for it was not possible to guaranty to France her colonies; she lost them, and there was nothing to guaranty; it was a one-sided guarantee! She surrendered them by treaty, and there is nothing for the guarantee to operate on.

The gentleman from Georgia [Mr. KING] has given a vivid and able picture of the exertions of the United States Government in behalf of these claims. He has shown, sir, that they have been paid, and more than paid, on our part, by the invaluable blood of our citizens! Such, indeed sir, is the fact. What has not been done by the United States on behalf of these claims! For these very claims, for the protection of those very claimants, we underwent an incredible expense both in military and naval armaments.

[Here the honorable Senator read a long list of military and naval preparations made by Congress for the protection of these claims, specifying the dates and the numbers.]

Nor did the United States confine herself solely to these strenuous exertions and expensive armaments: besides raising fleets and armies, she sent across the Atlantic embassies, ambassadors, and agents; she gave letters of marque, by which every injured individual might take his own remedy and repay himself his losses. For these very claims, sir, the people were laden at that period with heavy taxes, besides the blood of our people which was spilt for them. Loans were raised at eight per cent. to obtain redress for these claims; and what, sir, was the consequence? It overturned the men in power at that period: this it was which produced that result, more than political differences.

The people were taxed and suffered for these same claims in that day, and now they are brought forward again to exhaust the public treasury again, to sweep away more millions yet from the people, to impose taxes again upon them, for the very same claims for which the people have already once been taxed; reviving the sys-

tem of '98, to render loans and debts and encumbrances again to be required; to embarrass the Government, entangle the State, to impoverish the people; to dig, in a word, by gradual measures of this description, a pit to plunge the nation headlong into inextricable difficulty and ruin!

The Government in those days performed its duty to the citizens in the protection of their commerce, and by vindicating, asserting, and satisfying these claims; it left nothing undone which now is to be done; the pretensions of this bill are therefore utterly unfounded! Duties are reciprocal: the duty of Government is protection, and that of citzens allegiance. This bill attempts to throw upon the present Government the duties and expenses of a former Government, which have been already once acquitted. On its part, Government has fulfilled, with energy and zeal, its duty to the citizens; it has protected and now is protecting their rights, and asserting their just claims. Witness our navy, kept up in time of peace, for the protection of commerce and for the profit of our citizens; witness our cruisers on every point of the globe, for the security of citizens pursuing every kind of lawful business. But, sir, there are limits to the protection of the interests of individual citizens; peace must at one time or other be obtained, and sacrifices are to be made for a valuable consideration. Now, sir, peace is a valuable consideration, and claims are often necessarily abandoned to obtain it. In 1814 we gave up claims for the sake of peace; we gave up claims for Spanish spoliations at the treaty of Florida; we gave up claims to Denmark. These claims also were given up, long anterior to the others I have mentioned. When peace is made, the claims take their chance; some are given up for a gross sum, and some, such as these, when they are worth nothing will fetch nothing. How monstrous, therefore, sir, that measure is, which would transfer abandoned and disputed claims from the country, by which they were said to be due, to our own country, to our own Government, upon our own citizens, requiring us to pay what others owed, (nay, what it is doubtful if they did owe;) requiring us to pay what we have never received one farthing for, and for which, if we had received millions, sir, we have paid away more than those millions in ardous exertions on their behalf!

I should not discharge the duty I owe to my country, if I did not probe still deeper into these transactions. What, sir, were the losses which led to these claims? Gentlemen have indulged themselves in all the flights and raptures of poetry on this pathetic topic; we have heard of "ships swept from the ocean, families plunged in want and ruin," and such like! What is the fact, sir? It is as the gentleman from New Hampshire has said: never, sir, was there known, before or since, such a flourishing state of commerce as the very time and period of these spoliations. At that time, sir, men made fortunes if they saved one ship only out of every four or five from the French cruisers! Let us examine the stubborn facts of sober arithmetic in this case, and not sit still and see the people's money charmed out of the treasury by the persuasive notes of poetry. (Mr. B. here referred to public documents showing that, in the years 1793, '94, '95, '96, '97, '98, '99, up to 1800, the exports annually increased at a rapid rate, till, in 1800, they amounted to more than $91,000,000.)

It must be taken into consideration that at this period our population was less than it is now, our territory was much more limited, we had not Louisiana and the port of New Orleans, and yet our commerce was far more flourishing than it ever has been since, and at a time, too, when we had no mammoth banking corporation to boast of its indispensable, its vital necessity to commerce! These, sir, are the facts of numbers, of arithmetic which blow away the edifice of the gentlemen's poetry, as the wind scatters straws.

With respect to the parties in whose hands these claims are. They are in the hands of ensurance offices, asignees, and jobbers; they are in the hands of the knowing ones who have bought them up for two, three, five, ten cents in the dollar! What has become of the screaming babes that have been held up after the ancient Roman method, to excite pity and move our sympathies? What has become of the widows and original claimants? They have been bought out long ago by the knowing ones. If we countenance this bill, sir, we shall renew the disgraceful scenes of 1793, and witness a repetition of the infamous fraud and gambling, and all the old artifices which the certificate funding act gave rise to. (Mr. B. here read several interesting extracts, describing the scenes which then took place.)

One of the most revolting features of this bill is its relation to the ensurers. The most infamous and odious act ever passed by Congress was the certificate funding act of 1793, an act passed in favor of a crowd of speculators; but the principle of this bill is more odious than even it; I mean, sir, that of paying ensurers for their losses. The United States, sir, ensure! Can any thing be conceived more revolting and atrocious than to direct the funds of the treasury, the property of the people, to such iniquitous uses? On what principle is this grounded? Their occupation is a safe one; they make calculations against all probabilities; they make fortunes at all times; and especially at this very time when we are called upon to refund their losses, they made immense fortunes. It would be far more just and equitable if Congress were to ensure the farmers and planters, and pay them their losses on the failure of the cotton crop; they, sir, are more entitled to put forth such claims than speculators and gamblers, whose trade and business it is to make money by losses. This bill, if passed, would be the most odious and unprincipled ever passed by Congress.

Another question, sir, occurs to me: what sum of money will this bill abstract from the treasury? It says five millions, it is true; but it does not say "and no more," it does not say that they will be in full. If the project of passing this bill should succeed, not only will claims be made, but next will come interest upon them! Reflect, sir, one moment: interest from 1798 and 1800 to this day! Nor is there any limitation of the amount of claims; no, sir, it would not be possible for the imagination of man, to invent more cunning words than the wording of this bill. It is made to cover all sorts of claims; there is no kind of specification adequate to exclude them; the most illegal claims will be admitted by its loose phraseology!

Again, sir, suffer me to call your attention to another feature of this atrocious measure; let me warn my country of the abyss which it is attempted to open before it, by this and other similar measures of draining and exhausting the public treasury!

These claims, sir; these claims rejected and spurned by France; these claims for which we have never received one single cent, all the payment ever made for them urged upon us by their advocates being a metaphysical and imaginary payment; these claims which, under such deceptive circumstances as these, we, sir, are called upon to pay, and to pay to ensurers, usurers, gamblers, and speculators; these monstrous claims, sir, which are foisted upon the American people, let me ask, how are they to be adjudged by this bill? Is it credible, sir? They are to be tried by an *ex parte* tribunal! Commissioners are to be appointed, and then, once seated in this berth, they are to give away and dispose of the public money according to the cases proved! No doubt, sir, they will be all honorable men. I do not dispute that! No doubt it will be utterly impossible to

prove corruption, or bribery, or interested motives, or partialities against them; nay, sir, no doubt it will be dangerous to suspect such honorable men; we shall be replied to at once by the indignant question, "are they not all honorable men?" But, sir, to all intents and purposes this tribunal will be an *ex parte*, a one-sided tribunal, and passive to the action of the claimants.

Again, sir, look at the species of evidence which will be invited to appear before these commissioners; of what description will it be? Here is not a thing recent and fresh upon which evidence, may be gained. Here are transactions thirty or forty years ago. The evidence is gone, witnesses dead, memories failing, no testimony to be procured, and no lack of claimants, notwithstanding. Then, sir, the next best evidence, that suspicious and worthless sort of evidence, will have to be resorted to, and this will be ready at hand to suit every convenience in any quantity. There could not be a more effective and deeper plan than this devised to empty the treasury! Here will be sixty millions exhibited as a lure for false evidence, and false claims; an awful, a tremendous temptation for men to send their souls to hell for the sake of money. On the behalf of the moral interests of my country, while it may yet not be too late, I denounce this bill, and warn Congress not to lend itself to a measure by which it will debauch the public morals, and open a wide gulf of wrong-doing and not-to-be-imagined evil!

The bill proposes the amount of only five millions, while, by the looseness of its wording, it will admit old claims of all sorts and different natures; claims long since abandoned for gross sums; all will come in by this bill! One hundred millions of dollars, sir, will not pay all that will be patched up under the cover of this bill! In bills of this description we may see, sir, a covered attempt to renew the public debt, to make loans and taxes necessary, and the engine of loans necessary with them! There are those, sir, who would gladly overwhelm the country in debt, that corporations might be maintained which thrive by debt, and make their profits out of the misery and encumbrances of the people. Shall the people be denied the least repose from taxation? Shall all the labor and exertions of Government to extinguish the public debt be in vain? Shall its great exertions to establish economy in the State, and do away with a system of loans and extravagance, be thwarted and resisted by bills of this insidious aim and character? Shall the people be prevented from feeling in reality that we have no debt: shall they only know it by dinners and public rejoicings? Shall such a happy and beneficial result of wise and wholesome measures be rendered all in vain by envious efforts to destroy the whole, and render it impossible for the country to go on without borrowing and being in debt?

I will not attempt, sir, to enter into all the latent motives which lie concealed under all these multiplied and persevering attacks to drain the public treasury, and embarrass and entangle the public affairs.

There is, however, one motive in the back ground, which I will drag forward to view; and the brief digression into which it might lead me, will not be foreign to the subject before us. Can any one be so blind, sir, as not to discover that, if the effort should prove successful to exhaust the public treasury, and misapply to all sorts of extravagancies the public money, then high duties will become necessary, the high tariff party will be resuscitated, and a good and sufficient excuse will be held out to the nation for violating the compromise act? It is a masked attack, not an open fight. For this they strain every nerve to encumber the Government, to overwhelm the country in debts and taxes, to multiply expenditure, and lavishly bestow the public money on all who offer some plausible pretext to obtain it. Already three bills, originating in this House, would dispose of ten millions of the public treasury; and this bill, if suffered to pass, will obtain control over sums the amount of which it is not possible for any one to foresee or to calculate. If this is a digression, sir, it bears strongly upon the measure before us. I conclude, having said much more than I intended, though not half what I feel.

When Mr. B. had concluded—

Mr. WEBSTER said, that, as no gentleman proposed to address the Senate on the subject of the bill before them, he was ready to perform the duty that remained to him, in answering, as far as the indulgence of the Senate would permit, and the occasion demanded, the observations of those gentlemen who had spoken in opposition to the bill. If it was the pleasure of the Senate, he would proceed now, or to-morrow; or, if the Senate would not sit to-morrow, he would address them on Monday.

Several gentlemen naming Monday,

Mr. WEBSTER moved that, when the Senate adjourns, it adjourn to meet on Monday next; which motion was adopted.

On motion of Mr. CLAYTON, the Senate proceeded to the consideration of executive business; and, when the doors were opened,

Adjourned to meet on Monday next.

MONDAY, JANUARY 12.

Mr. KING, of Georgia, announced the arrival of the Honorable ALFRED CUTHBERT, elected by the Legislature of the State of Georgia a Senator of the United States, to supply the vacancy occasioned by the resignation of the Honorable John Forsyth. Mr. K. stated, that, owing to an accident, Mr. CUTHBERT had lost his credentials, but that he (Mr. K.) could avouch the fact of his election; and, as he understood that there was a precedent for the motion, he moved that Mr. CUTHBERT be permitted to take his seat.

The motion was agreed to without opposition, and the usual oath to support the constitution was administered to Mr. CUTHBERT by the VICE PRESIDENT, and

Mr. CUTHBERT took his seat.

BANK CHARTERS—DISTRICT OF COLUMBIA.

Mr. BENTON rose and said that, as there were applications now before Congress for a renewal of the charters of the banks of this District, he begged leave to submit to the Senate, by way of notice, a paper containing the substance of the amendments which he intended to insist on when the bills should come up for consideration.

I. That no application for a renewal of charter should be entertained in favor of any bank which has heretofore failed or suspended payment, until all the circumstances attending such failure or suspension shall have been fully examined and reported upon by a committee of one of the Houses of Congress.

II. That banks of circulation ought to be reduced in number, not increased.

III. That no charter ought to be renewed, granted, or extended, except upon the following fundamental principles, (among others:) 1st. The bank to pay all its currency in gold and silver—the holder to have the right to require the one-half in gold, and the other half in silver; 2d. No paper currency to be issued, renewed, or paid out, of a less denomination than $20; 3d. The stockholders, for the time being, to be liable, each to the amount of his stock, for the circulation and deposites, on the failure of the bank to redeem its currency, or pay its deposites, with summary process for the recovery; and all sales and transfers of stock to be void which

shall be adjudged, by a jury, to have been made with intent to evade this liability.

On Mr. BENTON's motion, the paper was ordered to be printed.

BANK OF THE UNITED STATES.

The resolution offered by Mr. BENTON, on Friday, was modified by him, to read as follows:

Resolved, That the Committee on Finance be instructed to obtain from the Bank of the United States a copy of all instructions, if any, to the branch banks, directing them to collect and remit Spanish milled dollars to the mother bank; the number of such dollars annually remitted; the rates at which they sold at different periods, say at or about the beginning of each quarter of the year; whether the Bank of the United States has sold such dollars to the United States; and, if so, how many, and at what rates?—how many it has sold to others, or exported to foreign countries? Also, a statement of the amount of gold coin, of the amount of silver coin, and the amount of bullion, remitted to the mother bank, or elsewhere, by her order, annually, since the 1st day of January, 1832; also, a statement showing the amount of silver coin and of gold coin remitted by the mother bank to each branch since that day; also, the amounts of gold coin and the amounts of silver coin annually sold or annually exported by the bank since the said 1st day of April; also, a statement of the amount of gold received from the United States mint since the 1st day of August last, and a statement of the whole amount of gold on hand in the bank and its branches, for each month, from April 1, 1832, to the present time; also, a statement of the gross amounts of the half-yearly profits of the bank, from the commencement of the institution to the present time.

Mr. TYLER said he had no objection to the adoption of the resolution, and he wished it to be distinctly understood that the Committee on Finance had no hostility whatever, either to the contemplated inquiry, or to the fullest publicity being given to it. He wished it also to be understood that, without being by any means friendly to the Bank of the United States, he could, so far as his investigations on the committee extended, pronounce that the charge couched in the resolution was unfounded. That charge was long since made—was ably rebutted before the labors of the Committee on Finance commenced; and that committee would have been strangely forgetful of their duty if they had not fully inquired into them. The charge of a traffic in gold and silver was made against the bank in 1832, and that committee had fully looked into it, and could not sustain it. Mr. T. said, if the honorable Senator from Missouri wished the reference of the resolution, he was ready to vote for it; but he wished it to be understood that, although he stood in his place as the constitutional enemy of the United States Bank, he, as a member of the Committee on Finance, stood there to do justice, not only to the bank but to the people. He had considered this subject as already settled by the report of the committee; but, he repeated that, if the Senator from Missouri wished to renew the investigation, he would vote for it.

Mr. BENTON was glad to hear that the Senator from Virginia was not disposed to oppose the passage of the resolution. He (Mr. B.) might barely say it would hardly have been right had the gentleman done so. The information which he possessed might possibly have been erroneous, and the report on the subject might also be so; if, however, that should turn out to be the case, why, then, he should have no more to say. But the gentleman from Virginia, in the course of this investigation, would have to undergo a severe ordeal, one that was something worse than walking among burning ploughshares, before he had done with it.

Mr. TYLER said that he thought to be delivered from Jacksonism and its blighting effects would not be so easy a task as to be delivered from the blighting trial which he (Mr. T.) had to go through. He thought he had shaken this incubus from his shoulders; and although his opinions concerning the United States Bank were well known, he should pursue this investigation, actuated by the most impartial motives. The honorable Senator need not feel the slightest apprehension about him, for on his (Mr. T's) mother's knee he had heard an adage, to which he had clung from that time to this, and to which he should ever cling, that, in all matters, private or political—"honesty is the best policy."

Mr. BENTON said that, as to the principles of disinterestedness and integrity by which the gentleman had been governed, he (Mr. B.) would barely remark that he had never heard the honorable Senator terminate one of his speeches without some asseveration of that kind. And he (Mr. B.) believed also, in reading his speeches, they always closed with this declaration of his own honesty of purpose. Every speech he had read commenced and ended with a high-wrought encomium upon his own integrity, his disinterestedness, his impartiality, and regard for truth. The gentleman, so far as his (Mr. B's) information went, need not make any further declarations on the subject of his impartiality and the honesty with which he always discharged all his duties, for he (Mr. B.) was fully aware of that. In regard to the other branch of this matter, he was ready to enter into it when and where honorable Senators pleased. Mr. B. here briefly apologized to Mr. BIBB for having taken the floor on Friday last, he being entirely unaware that that gentleman was first entitled to it.

Mr. TYLER said that, though he made declarations of honesty, it was not his intention thereby to intimate that the honorable Senator from Missouri was bound to follow his example in any speech he chose to deliver. He (Mr. T.) meant merely to say that he could protect himself; that he should come out of the ordeal of which the gentleman had spoken unscathed and unseared. He (Mr. T.) would advise the honorable Senator to trim his midnight lamp, or otherwise he might not fare so well as he imagined in this controversy. For himself, he (Mr. T.) was perfectly ready for the encounter.

Mr. BENTON said he hoped to finish this little conversation by giving the honorable Senator a slight admonition, and one which held good in every station of life, though, to be sure, a homely one; and it was, "not to halloo before he was out of the woods."

Mr. TYLER said, I will give the same advice to the honorable Senator.

The resolution was then agreed to.

FRENCH SPOLIATIONS.

The Senate then proceeded to the special order of the day, being the French spoliations bill.

Mr. WEBSTER rose and said that, before proceeding to the discussion of the bill, he felt it to be his duty to take notice of an occurrence such as did not ordinarily draw from him any remarks in his place in the Senate. Some time last March, said Mr. W., there appeared in a newspaper published at Albany, in the State of New York, a letter purporting to have been written to the editor, from Washington, in which the writer charged me with having a direct personal interest in these claims. I am ashamed to say that this letter was written by a member of Congress. The assertion, like many others which I have not felt it to be my duty to take any notice of, was wholly and entirely false and malicious. I have not the slightest interest in these claims, or any one of them. I have never been conferred with or retained by any one, or spoken to as counsel for any of them, in the course of my life. No member of the Sen-

ate is more entirely free from any personal connexion with the claims than I am. It has been the pleasure of the Senate, on several occasions, to place me on a committee to which these petitions have been referred. I have on those occasions examined the subject with a desire to acquit myself conscientiously, by exercising my best judgment upon the claims, as questions of mere right and justice.

At the last session, an honorable member of the Senate, now in a public capacity at St. Petersburg, introduced a bill for the relief of the petitioners, and moved the appointment of a committee, declining himself to be a member of that committee. Without any wish of mine, and indeed without my knowledge, for I was not then in the city, the Senate was pleased to place me at the head of that committee. I thought it my duty then to introduce the bill which was now again under consideration.

This, said Mr. W., is no party question; it involves no party principles; affects no party interests; seeks no party ends or objects—and as it is a question of private right and justice, it would be flagrant wrong and injustice to attempt to give to it, any where, the character of a party measure. The petitioners, the sufferers under the French spoliations, belong to all parties. Gentlemen of distinction, of all parties, have at different times maintained the justice of the claim. The present bill is intended for the equal relief of all sufferers; and if the measure shall become a party measure, I, for one, shall not pursue it. It will be wiser to leave it till better auspices shall appear.

The question, sir, involved in this case, is essentially a judicial question. It is not a question of public policy, but a question of private right; a question between the Government and the petitioners; and, as the Government is to be judge in its own case, it would seem to be the duty of its members to examine the subject with the most scrupulous good faith, and the most solicitous desire to do justice.

There is a propriety in commencing the examination of these claims in the Senate, because it was the Senate which, by its amendment of the treaty of 1800, and its subsequent ratification of that treaty, and its recognition of the declaration of the French Government, effectually released the claims as against France, and for ever cut off the petitioners from all hopes of redress from that quarter. The claims, as claims against our own Government, have their foundation in these acts of the Senate itself; and it may certainly be expected that the Senate will consider the effects of its own proceedings, on private rights and private interests, with that candor and justice which belong to its high character.

It ought not to be objected to these petitioners, that their claim is old, or that they are now reviving any thing which has heretofore been abandoned. There has been no delay which is not reasonably accounted for. The treaty by which the claimants say their claims on France for these captures and confiscations were released was concluded in 1800. They immediately applied to Congress for indemnity, as will be seen by the report made in 1802, in the House of Representatives, by a committee of which a distinguished member from Virginia, not now living, [Mr. Giles,] was chairman.

In 1807, on the petition of sundry merchants and others, citizens of Charleston, in South Carolina, a committee of the House of Representatives, of which Mr. Marion, of that State, was chairman, made a report, declaring that the committee was of opinion that the Government of the United States was bound to indemnify the claimants. But at this time our affairs with the European Powers at war had become exceedingly embarrassed; our Government had felt itself compelled to withdraw our commerce from the ocean; and it was not until after the conclusion of the war of 1812, and after the general pacification of Europe, that a suitable opportunity occurred of presenting the subject again to the serious consideration of Congress. From that time the petitioners have been constantly before us, and the period has at length arrived proper for a final decision of their case.

Another objection, sir, has been urged against these claims, well calculated to diminish the favor with which they might otherwise be received, and which is without any substantial foundation in fact. It is, that a great portion of them has been bought up, as a matter of speculation, and it is now holden by these purchasers. It has even been said, I think, on the floor of the Senate, that nine-tenths, or ninety-hundredths, of all the claims are owned by speculators.

Such unfounded statements are not only wholly unjust towards these petitioners themselves, but they do great mischief to other interests. I have observed that a French gentleman of distinction, formerly a resident in this country, is represented in the public newspapers as having declined the offer of a seat in the French administration, on the ground that he could not support the American treaty; and he could not support the treaty because he had learned, or heard, while in America, that the claims were no longer the property of the original sufferers, but had passed into unworthy hands. If any such thing has been learned in the United States, it has been learned from sources entirely incorrect. The general fact is not so; and this prejudice, thus operating on a great national interest—an interest in regard to which we are in danger of being seriously embroiled with a foreign State—was created, doubtless, by the same incorrect and unfounded assertions which have been made relative to this other class of claims.

In regard to both classes, and to all classes of claims of American citizens on foreign Governments, the statement is at variance with the facts. Those who make it have no proof of it. On the contrary, incontrovertible evidence exists of the truth of the very reverse of this statement. The claims against France, since 1800, are now in the course of adjudication. They are all, or very nearly all, presented to the proper tribunal. Proofs accompany them, and the rules of the tribunal require that, in each case, the true ownership should be fully and exactly set out, on oath; and be proved by the papers, vouchers, and other evidence. Now, sir, if any man is acquainted, or will make himself acquainted, with the proceedings of this tribunal, so far as to see who are the parties claiming the indemnity, he will see the absolute and enormous error of those who represent these claims to be owned, in great part, by speculators.

The truth is, sir, that these claims, as well those since 1800 as before, are owned and possessed by the original sufferers, with such changes only as happen in regard to all other property. The original owner of ship and cargo; his representative, where such owner is dead; underwriters who have paid losses on account of captures and confiscations; and creditors of insolvents and bankrupts who were interested in the claims—these are the descriptions of persons who, in all these cases, own vastly the larger portion of the claims. This is true of the claims on Spain, as is most manifest from the proceedings of the commissioners under the Spanish treaty. It is true of the claims on France arising since 1800, as is equally manifest by the proceedings of the commissioners now sitting; and it is equally true of the claims which are the subject of this discussion, and provided for in this bill. In some instances claims have been assigned from one to another, in the settlement of family affairs. They have been transferred, in other instances,

to secure or to pay debts; they have been transferred, sometimes, in the settlement of ensurance accounts; and it is probable there are a few cases in which the necessities of the holders have compelled them to sell them. But nothing can be further from the truth than that they have been the general subjects of purchase and sale, and that they are now holden mainly by purchasers from the orignal owners. They have been compared to the unfunded debt. But that consisted in scrip, of fixed amount, and which passed from hand to hand by delivery. These claims cannot so pass from hand to hand. In each case, not only the value but the amount is uncertain. Whether there be any claim, is in each case a matter for investigation and proof; and so is the amount, when the justice of the claim itself is established. These circumstances are of themselves quite sufficient to prevent the easy and frequent transfer of the claims from hand to hand. They would lead us to expect that to happen which actually has happened; and that is, that the claims remain with their original owners, and their legal heirs and representatives, with such exceptions as I have already mentioned. As to the portion of the claims now owned by underwriters, it can hardly be necessary to say that they stand on the same equity and justice as if possessed and presented by the owners of ships and goods. There is no more universal maxim of law and justice, throughout the civilized and commercial world, than that an underwriter, who has paid a loss on ships or merchandise to the owner, is entitled to whatever may be received from the property. His right accrues by the very act of payment; and if the property, or its proceeds, be afterwards recovered, in whole or in part, whether the recovery be from the sea, from captors, or from the justice of foreign States, such recovery is for the benefit of the underwriter. Any attempt, therefore, to prejudice these claims, on the ground that many of them belong to ensurance companies, or other underwriters, is at war with the first principles of justice.

A short but accurate general view of the history and character of these claims is presented in the report of the Secretary of State, on the 20th of May, 1826, in compliance with a resolution of the Senate. Allow me, sir, to read the paragraphs:

"The Secretary can hardly suppose it to have been the intention of the resolution to require the expression of an argumentative opinion as to the degree of responsibility to the American sufferers from French spoliations, which the convention of 1800 extinguished on the part of France, or devolved on the United States, the Senate itself being most competent to decide that question. Under this impression, he hopes that he will have sufficiently conformed to the purposes of the Senate, by a brief statement, prepared in a hurried moment, of what he understands to be the question.

"The second article of the convention of 1800 was in the following words: 'The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate farther on these subjects at a convenient time; and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.'

"When that convention was laid before the Senate, it gave its consent and advice that it should be ratified, provided that the second article be expunged, and that the following article be added or inserted: 'It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications;' and it was accordingly so ratified by the President of the United States on the 18th day of February, 1801. On the 31st of July of the same year, it was ratified by Bonaparte, First Consul of the French Republic, who incorporated in the instrument of his ratification the following clause as part of it: 'The Government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition, importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article.'

"The French ratification being thus conditional, was, nevertheless, exchanged against that of the United States, at Paris, on the same 31st of July. The President of the United States considering it necessary again to submit the convention in this state to the Senate, on the 19th day of December, 1801, it was resolved by the Senate that they considered the said convention as fully ratified, and returned it to the President for the usual promulgation. It was accordingly promulgated, and thereafter regarded as a valid and binding compact. The two contracting parties thus agreed, by the retrenchment of the second article, mutually to renounce the respective pretensions which were the object of that article. The pretensions of the United States, to which allusion is thus made, arose out of the spoliations under color of French authority, in contravention of law and existing treaties. Those of France sprung from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788. Whatever obligations or indemnities, from these sources, either party had a right to demand, were respectively waived and abandoned; and the consideration which induced one party to renounce his pretensions, was that of renunciation by the other party of his pretensions. What was the value of the obligations and indemnities so reciprocally renounced, can only be matter of speculation. The amount of the indemnities due to the citizens of the United States was very large; and, on the other hand, the obligation was great (to specify no other French pretensions) under which the United States were placed in the eleventh article of the treaty of alliance of the 6th of February, 1778, by which they were bound for ever to guaranty from that time the then possessions of the Crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain; all these possessions having been, it is believed, conquered, at or not long after the exchange of the ratifications of the convention of September, 1800, by the arms of Great Britain from France.

"The fifth article of the amendments to the constitution provides: 'nor shall private property be taken for public use without just compensation.' If the indemnities to which citizens of the United States were entitled for French spoliations prior to the 30th of September, 1800, have been appropriated to absolve the United States from the fulfilment of an obligation which they had contracted, or from the payment of indemnities which they were bound to make to France, the Senate is most competent to determine how far such an appropriation is a public use of private property within the spirit of the constitution, and whether equitable considerations do not require some compensation to be made to the claimants. The Senate is also best able to estimate the probability which existed of an ultimate recovery from France of the amount due for those indem-

nities, if they had not been renounced; in making which estimate, it will, no doubt, give just weight to the painful consideration that repeated and urgent appeals have been, in vain, made to the justice of France for satisfaction of flagrant wrongs committed upon property of other citizens of the United States subsequent to the period of the 30th of September, 1800."

Before the interference of our Government with these claims, they constituted just demands against the Government of France. They were not vague expectations of possible future indemnity for injuries received, too uncertain to be regarded as valuable, or be esteemed property. They were just demands, and, as such, they were property. The courts of law took notice of them as property. They were capable of being devised, of being distributed among heirs and next of kin, and of being transferred and assigned, like other legal and just debts. A claim or demand for a ship unjustly seized and confiscated is property, as clearly as the ship itself. It may not be so valuable, or so certain; but it is as clear a right, and has been uniformly so regarded by the courts of law. The papers show that American citizens had claims against the French Government for six hundred and fifteen vessels unlawfully seized and confiscated. If this were so, it is difficult to see how the Government of the United States can release these claims for its own benefit, with any more propriety than it could have applied the money to its own use, if the French Government had been ready to make compensation, in money, for the property thus illegally seized and confiscated; or how the Government could appropriate to itself the just claims which the owners of these six hundred and fifteen vessels held against the wrong-doers, without making compensation, any more than it could appropriate to itself, without making compensation, six hundred and fifteen ships which had not been seized. I do not mean to say that the rate of compensation should be the same in both cases; I do not mean to say that a claim for a ship is of as much value as a ship; but I mean to say that both the one and the other are property, and that Government cannot, with justice, deprive a man of either, for its own benefit, without making a fair compensation.

It will be perceived at once, sir, that these claims do not rest on the ground of any neglect or omission, on the part of the Government of the United States, in demanding satisfaction from France. That is not the ground. The Government of the United States, in that respect, performed its full duty. It remonstrated against these illegal seizures; it insisted on redress; it sent two special missions to France, charged expressly, among other duties, with the duty of demanding indemnity. But France had her subjects of complaint, also, against the Government of the United States, which she pressed with equal earnestness and confidence, and which she would neither postpone nor relinquish, except on the condition that the United States would postpone or relinquish these claims. And to meet this condition, and to restore harmony between the two nations, the United States did agree, first to postpone, and afterwards to relinquish, these claims of its own citizens. In other words, the Government of the United States bought off the claims of France against itself, by discharging claims of our own citizens against France.

This, sir, is the ground on which these citizens think they have a claim for reasonable indemnity against their own Government. And now, sir, before proceeding to the disputed part of the case, permit me to state what is admitted.

In the first place, then, it is universally admitted that these petitioners once had just claims against the Government of France, on account of these illegal captures and condemnations.

In the next place, it is admitted that these claims no longer exist against France; that they have, in some way, been extinguished or released, as to her; and that she is for ever discharged from all duty of paying or satisfying them, in whole or in part.

These two points being admitted, it is then necessary, in order to support the present bill, to maintain four propositions:

1. That these claims subsisted against France up to the time of the treaty of September, 1800, between France and the United States.

2. That they were released, surrendered, or extinguished, by that treaty, its amendment in the Senate, and the manner of its final ratification.

3. That they were thus released, surrendered, or extinguished, for political and national considerations, for objects and purposes deemed important to the United States, but in which these claimants had no more interest than any other citizens.

4. That the amount or measure of indemnity proposed by this bill is no more than a fair and reasonable compensation, so far as we can judge by what has been done in similar cases.

1. Were these subsisting claims against France up to the time of the treaty? It is a conclusive answer to this question, to say that the Government of the United States insisted that they did exist, up to the time of the treaty, and demanded indemnity for them, and that the French Government fully admitted their existence, and acknowledged its obligation to make such indemnity.

The negotiation, which terminated in the treaty, was opened by a direct proposition for indemnity, made by our ministers, the justice and propriety of which was immediately acceded to by the ministers of France.

On the 7th of April, 1800, in their first letter to the ministers of France, Messrs. Ellsworth, Davie, and Murray, say:

"Citizen ministers: The undersigned, appreciating the value of time, and wishing by frankness to evince their sincerity, enter directly upon the great object of their mission—an object which they believe may be best obtained by avoiding to retrace minutely the too well known and too painful incidents which have rendered a negotiation necessary.

"To satisfy the demands of justice, and render a reconciliation cordial and permanent, they propose an arrangement, such as shall be compatible with national honor and existing circumstances, to ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of commercial intercourse between the two countries which must essentially contribute to their mutual advantage.

"Should this general view of the subject be approved by the ministers plenipotentiary to whom it is addressed, the details, it is presumed, may be easily adjusted, and that confidence restored which ought never to have been shaken."

To this letter the French ministers immediately returned the following answer:

"The ministers plenipotentiary of the French Republic have read attentively the proposition for a plan of negotiation which was communicated to them by the envoys extraordinary and ministers plenipotentiary of the United States of America.

"They think that the first object of the negotiation ought to be the determination of the regulations, and the steps to be followed for the estimation and indemnification of injuries for which either nation may make claim for itself, or for any of its citizens. And that the second object is to assure the execution of treaties

of friendship and commerce made between the two nations, and the accomplishment of the views of reciprocal advantages which suggested them."

It is certain, therefore, that the negotiation commenced in the recognition, by both parties, of the existence of individual claims, and of the justice of making satisfaction for them; and it is equally clear that, throughout the whole negotiation, neither party suggested that these claims had already been either satisfied or extinguished; and it is indisputable that the treaty itself, in the second article, expressly admitted their existence, and solemnly recognised the duty of providing for them at some future period.

It will be observed, sir, that the French negotiators, in their first letter, while they admit the justice of providing indemnity for individual claims, bring forward, also, claims arising under treaties; taking care, thus early, to advance the pretensions of France on account of alleged violations by the United States of the treaties of 1778. On that part of the case, I shall say something hereafter; but I use this first letter of the French ministers at present only to show that, from the first, the French Government admitted its obligation to indemnify individuals who had suffered wrongs and injuries.

The honorable member from New York [Mr. WRIGHT] contends, sir, that, at the time of concluding the treaty, these claims had ceased to exist. He says that a war had taken place between the United States and France, and by the war the claims had become extinguished. I differ from the honorable member, both as to the fact of war, and as to the consequences to be deduced from it, in this case, even if public war had existed. If we admit, for argument sake, that war had existed, yet we find that, on the restoration of amity, both parties admit the justice of these claims and their continued existence, and the party against which they are preferred acknowledges her obligation, and expresses her willingness to pay them. The mere fact of war can never extinguish any claim. If, indeed, claims for indemnity be the professed ground of a war, and peace be afterwards concluded without obtaining any acknowledgment of the right, such a peace may be construed to be a relinquishment of the right, on the ground that the question has been put to the arbitration of the sword, and decided. But, if a war be waged to enforce a disputed claim, and it be carried on till the adverse party admit the claim, and agree to provide for its payment, it would be strange, indeed, to hold that the claim itself was extinguished by the very war which had compelled its express recognition. Now, whatever we call that state of things which existed between the United States and France from 1798 to 1800, it is evident that neither party contended or supposed that it had been such a state of things as had extinguished individual claims for indemnity for illegal seizures and confiscations.

The honorable member, sir, to sustain his point, must prove that the United States went to war to vindicate these claims; that they waged that war unsuccessfully; and that they were therefore glad to make peace, without obtaining payment of the claims, or any admission of their justice. I am happy, sir, to say that, in my opinion, facts do not authorize any such record to be made up against the United States. I think it is clear, sir, that whatever misunderstanding existed between the United States and France, it did not amount, at any time, to open and public war. It is certain that the amicable relations of the two countries were much disturbed; it is certain that the United States authorized armed resistance to French captures, and the captures of French vessels of war found hovering on our coast; but it is certain, also, not only that there was no declaration of war, on either side, but that the United States, under all their provocations, did never authorize general reprisals on French commerce. At the very moment when the gentleman says war raged between the United States and France, French citizens came into our courts, in their own names, claimed restitution for property seized by American cruisers, and obtained decrees of restitution. They claimed as citizens of France, and obtained restoration, in our courts, as citizens of France. It must have been a singular war, sir, in which such proceedings could take place. Upon a fair view of the whole matter, Mr. President, it will be found, I think, that every thing done by the United States was defensive. No part of it was ever retaliatory. The United States did not take justice into their own hands.

The strongest measure, perhaps, adopted by Congress, was the act of May 28, 1798. The honorable member from New York has referred to this act, and chiefly relies upon it, to prove the existence, or the commencement, of actual war. But does it prove either the one or the other?

It is not an act declaring war; it is not an act authorizing reprisals; it is not an act which, in any way, acknowledges the actual existence of war. Its whole implication and import is the other way. Its title is, "An act more effectually to protect the commerce and coasts of the United States."

This is its preamble:

"Whereas armed vessels, sailing under authority, or pretence of authority, from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations, and treaties between the United States and the French nation: therefore"—

And then follows its only section, in these words:

"Sec. 1. *Be it enacted, &c.*, That it shall be lawful for the President of the United States, and he is hereby authorized, to instruct and direct the commanders of the armed vessels belonging to the United States, to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing, depredations on the vessels belonging to citizens thereof; and also retake any ship or vessel, of any citizen or citizens of the United States, which may have been captured by any such armed vessel."

This act, it is true, authorized the use of force, under certain circumstances, and for certain objects, against French vessels. But there may be acts of authorized force, there may be assaults, there may be battles, there may be captures of ships and imprisonment of persons, and yet no general war. Cases of this kind may occur under that practice of retortion which is justified, when adopted for just cause, by the laws and usages of nations, and which all the writers distinguish from general war.

The first provision in this law is purely preventive and defensive; and the other hardly goes beyond it. Armed vessels hovering on our coast, and capturing our vessels, under authority, or pretence of authority, from a foreign State, might be captured and brought in, and vessels already seized by them retaken. The act is limited to armed vessels; but why was this, if general war existed? Why was not the naval power of the country let loose at once, if there were war, against the commerce of the enemy? The cruisers of France were preying on our commerce; if there was war, why were we restrained from general reprisals on her commerce? This restraining of the operation of our naval marine to armed vessels of France, and to such of them only as should be found hovering on our coast, for the purpose of committing depredations on our commerce, instead of proving a state of war, proves, I think, irresistibly, that a

state of general war did not exist. But even if this act of Congress left the matter doubtful, other acts passed at and near the same time demonstrate the understanding of Congress to have been, that although the relations between the two countries were greatly disturbed, yet that war did not exist. On the same day (May 28, 1798) in which this act passed, on which the member from New York lays so much stress, as proving the actual existence of war with France, Congress passed another act, entitled "An act authorizing the President of the United States to raise a provisional army;" and the first section declared that the President should be authorized, "in the event of a declaration of war against the United States, or of actual invasion over their territory by a foreign Power, or of imminent danger of such invasion, to cause to be enlisted," &c., ten thousand men.

On the 16th of July following, Congress passed the law for augmenting the army, the second section of which authorized the President to raise twelve additional regiments of infantry, and six troops of light dragoons, "to be enlisted for and during the continuance of the existing differences between the United States and the French Republic, unless sooner discharged," &c.

The following spring, by the act of the 2d of March, 1799, entitled "An act giving eventual authority to the President of the United States to augment the army," Congress provided that it should be lawful for the President of the United States, in case war should break out between the United States and a foreign European Power, &c., to raise twenty-four regiments of infantry, &c. And in the act for better organizing the army, passed the next day, Congress repeats the declaration, contained in a former act, that certain provisions shall not take effect unless war shall break out between the United States and some European prince, potentate, or State.

On the 20th of February, 1800, an act was passed to suspend the act for augmenting the army; and this last act declared that further enlistments should be suspended until the further order of Congress, unless in the recess of Congress, and during the continuance of the existing differences between the United States and the French Republic, war should break out between the United States and the French Republic, or imminent danger of an invasion of their territory by the said Republic should be discovered.

On the 14th of May, 1800, four months before the conclusion of the treaty, Congress passed an act authorizing the suspension of military appointments, and the discharge of troops under the provisions of the previous laws. No commentary is necessary, sir, on the texts of these statutes, to show that Congress never recognised the existence of war between the United States and France. They apprehended war might break out; and they made suitable provision for that exigency, should it occur; but it is quite impossible to reconcile the express and so often repeated declarations of these statutes, commencing in 1798, running through 1799, and ending in 1800, with the actual existence of war between the two countries at any period within those years.

The honorable member's second principal source of argument, to make out the fact of a state of war, is the several non-intercourse acts. And here again it seems to me an exactly opposite inference is the true one. In 1798, 1799, and 1800, acts of Congress were passed suspending the commercial intercourse between the United States, each for one year. Did any Government ever pass a law of temporary non-intercourse with a public enemy? Such a law would be little less than an absurdity. War itself effectually creates non-intercourse. It renders all trade with the enemy illegal, and, of course, subjects all vessels found so engaged, with their cargoes, to capture and condemnation as enemy's property. The first of these laws was passed June 13, 1798, the last, February 27, 1800. Will the honorable member from New York tell us when the war commenced? When did it break out? When did those "differences," of which the acts of Congress speak, assume a character of general hostility? Was there a state of war on the 13th of June, 1798, when Congress passed the first non-intercourse act; and did Congress, in a state of public war, limit non-intercourse with the enemy to one year? Or was there a state of peace in June, 1798? and, if so, I ask again, at what time after that period, and before September, 1800, did the war break out? Difficulties of no small magnitude surround the gentleman, I think, whatever course he takes through these statutes, while he attempts to prove from them a state of war. The truth is, they prove, incontestably, a state of peace; a state of endangered, disturbed, agitated peace; but still a state of peace. Finding themselves in a state of great misunderstanding and contention with France, and seeing our commerce a daily prey to the rapacity of her cruisers, the United States preferred non-intercourse to war. This is the ground of the non-intercourse acts. Apprehending, nevertheless, that war might break out, Congress made prudent provision for it by augmenting the military force of the country. This is the ground of the laws for raising a provisional army. The entire provisions of all these laws necessarily suppose an existing state of peace; but they imply also an apprehension that war might commence. For a state of actual war they were all unsuited; and some of them would have been, in such a state, preposterous and absurd. To a state of present peace, but disturbed, interrupted, and likely to terminate in open hostilities, they were all perfectly well adapted. And as many of these acts, in express terms, speak of war as not actually existing, but as likely or liable to break out, it is clear, beyond all reasonable question, that Congress never, at any time, regarded the state of things existing between the United States and France as being a state of war.

As little did the Executive Government so regard it, as must be apparent from the instructions given to our ministers, when the mission was sent to France. Those instructions, having recurred to the numerous acts of wrong committed on the commerce of the United States, and the refusal of indemnity by the Government of France, proceed to say: "This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but, desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce."

It is equally clear, on the other hand, that neither the French Government nor the French ministers acted on the supposition that war had existed between the two nations. And it was for this reason that they held the treaties of 1778 still binding. Within a month or two of the signature of the treaty, the ministers plenipotentiary of the French Republic write thus to Messrs. Ellsworth, Davie, and Murray: "In the first place, they will insist upon the principle already laid down in their former note, viz: that the treaties which united France and the United States are not broken; that even war could not have broken them; but that the state of misunderstanding which existed for some time between France and the United States, by the act of some agents rather than by the will of the respective Governments, has not been a state of war, at least on the side of France."

Finally, sir, the treaty itself, what is it? It is not called a treaty of peace; it does not provide for putting an end to hostilities. It says not one word of any preceding war; but it does say that "differences" have arisen between the two States, and that they have, therefore,

respectively, appointed their plenipotentiaries, and given them full powers to treat upon those "differences," and to terminate the same.

But the second article of the treaty, as negotiated and agreed on by the ministers of both Governments, is, of itself, a complete refutation of the whole argument which is urged against this bill, on the ground that the claims had been extinguished by war, since that article distinctly and expressly acknowledges the existence of the claims, and contains a solemn pledge that the two Governments, not being able to agree on them at present, will negotiate further on them, at convenient time thereafter. Whether we look, then, to the decisions of the American courts, to the acts of Congress, to the instructions of the American Executive Government, to the language of our ministers, to the declarations of the French Government and the French ministers, or to the unequivocal language of the treaty itself, as originally agreed to, we meet irresistible proof of the truth of the declaration, that the state of misunderstanding which had existed between the two countries was not war.

If the treaty had remained as the ministers on both sides agreed upon it, the claimants, though their indemnity was postponed, would have had no just claim on their own Government. But the treaty did not remain in this state. This second article was stricken out by the Senate; and, in order to see the obvious motive of the Senate in thus striking out the second article, allow me to read the whole article. It is in these words:

"The ministers plenipotentiary of the two parties not being able to agree, at present, respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

The article thus stipulating to make the claims of France, under the old treaties, matter of further negotiation, in order to get rid of such negotiation, and the whole subject, the Senate struck out the entire article, and ratified the treaty in this corrected form. France ratified the treaty, as thus amended, with the further declaration that, by thus retrenching the second article, the two nations renounce the respective pretensions which were the object of the article. In this declaration of the French Government, the Senate afterwards acquiesced; so that the Government of France, by this retrenchment, agreed to renounce her claims under the treaties of 1778, and the United States, in like manner, renounced the claims of their citizens for indemnities due to them.

And this proves, sir, the second proposition which I stated at the commencement of my remarks, viz: that these claims were released, relinquished, or extinguished, by the amendment of the treaty, and its ratification as amended. It is only necessary to add, on this point, that these claims for captures before 1800 would have been good claims under the late treaty with France, and would have come in for a dividend in the fund provided by that treaty, if they had not been released by the treaty of 1800. And they are now excluded from all participation in the benefit of the late treaty, because of such release or extinguishment by that of 1800.

In the third place, sir, it is to be proved, if it be not proved already, that these claims were surrendered, or released by the Government of the United States, on national considerations, and for objects in which these claimants had no more interest than any other citizens.

Now, sir, I do not feel called on to make out that the claims and complaints of France against the Government of the United States were well founded. It is certain that she put forth such claims and complaints, and insisted on them to the end. It is certain that, by the treaty of alliance of 1778, the United States did guaranty to France her West India possessions. It is certain that, by the treaty of commerce of the same date, the United States stipulated that French vessels of war might bring their prizes into the ports of the United States, and that the enemies of France should not enjoy that privilege; and it is certain that France contended that the United States had plainly violated this article, as well by their subsequent treaty with England as by other acts of the Government. For the violation of these treaties she claimed indemnity from the Government of the United States. Without admitting the justice of these pretensions, the Government of the United States found them extremely embarrassing, and they authorized our ministers in France to buy them off by money.

For the purpose of showing the justice of the present bill, it is not necessary to insist that France was right in these pretensions. Right or wrong, the United States were anxious to get rid of the embarrassments which they occasioned. They were willing to compromise the matter. The existing state of things, then, was exactly this:

France admitted that citizens of the United States had just claims against her; but she insisted that she, on the other hand, had just claims against the Government of the United States.

She would not satisfy our citizens, till our Government agreed to satisfy her. Finally, a treaty is ratified, by which the claims on both sides are renounced.

The only question is, whether the relinquishment of these individual claims was the price which the United States paid for the relinquishment, by France, of her claims against our Government? And who can doubt it? Look to the negotiation; the claims on both sides were discussed together. Look to the second article of the treaty, as originally agreed to; the claims on both sides are there reserved together. And look to the Senate's amendment, and to the subsequent declaration of the French Government, acquiesced in by the Senate; and there the claims on both sides are renounced together. What stronger proof could there be of mutuality of consideration? Sir, allow me to put this direct question to the honorable member from New York. If the United States did not agree to renounce these claims, in consideration that France would renounce hers, what was the reason why they surrendered thus the claims of their own citizens? Did they do it without any consideration at all? Was the surrender wholly gratuitous? Did they thus solemnly renounce claims for indemnity, so just, so long insisted on by themselves, the object of two special missions, the subjects of so much previous controversy, and at one time so near being the cause of open war—did the Government surrender and renounce them gratuitously, or for nothing? Had it no reasonable motive in the relinquishment? Sir, it is impossible to maintain any such ground.

And, on the other hand, let me ask, was it for nothing that France relinquished, what she had so long insisted on, the obligation of the United States to fulfil the treaties of 1778? For the extinguishment of this obligation we had already offered her a large sum of money, which she had declined. Was she now willing to give it up without any equivalent?

Sir, the whole history of the negotiation is full of proof that the individual claims of our citizens, and the Government claims of France against the United States, constituted the respective demands of the two parties. They were brought forward together, discussed together, insisted on together. The French ministers would never

consent to disconnect them. While they admitted, in the fullest manner, the claims on our side, they maintained, with persevering resolution, the claims on the side of France. It would fatigue the Senate were I to go through the whole correspondence, and show, as I could easily do, that, in every stage of the negotiation, these two subjects were kept together. I will only refer to some of the more prominent and decisive parts.

In the first place, the general instructions which our ministers received from our own Government, when they undertook the mission, directed them to insist on the claims of American citizens against France, to propose a joint board of commissioners to state those claims, and to agree to refer the claims of France for infringements of the treaty of commerce to the same board. I will read, sir, so much of the instructions as comprehend these points:

"First. At the opening of the negotiation you will inform the French ministers that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French Republic or its agents. And all captures and condemnations are deemed irregular or illegal when contrary to the law of nations, generally received and acknowledged in Europe, and to the stipulations in the treaty of amity and commerce of the 6th of February, 1778, fairly and ingenuously interpreted, while that treaty remained in force."

"Second. If these preliminaries should be satisfactorily arranged, then, for the purpose of examining and adjusting all the claims of our citizens, it will be necessary to provide for the appointment of a board of commissioners, similar to that described in the sixth and seventh articles of the treaty of amity and commerce between the United States and Great Britain."

"As the French Government have heretofore complained of infringements of the treaty of amity and commerce, by the United States or their citizens, all claims for injuries, thereby occasioned to France or its citizens, are to be submitted to the same board: and whatever damages they award will be allowed by the United States, and deducted from the sums awarded to be paid by France.

Now, sir, suppose this board had been constituted, and suppose that it had made awards against France, in behalf of citizens of the United States, and had made awards also in favor of the Government of France against the Government of the United States; and then these last awards had been deducted from the amount of the former, and the property of citizens thus applied to discharge the public obligations of the country, would any body doubt that such citizens would be entitled to indemnity? And are they less entitled, because, instead of being first liquidated and ascertained, and then set off, one against the other, they are finally agreed to be set off against each other, and mutually relinquished in the lump?

Acting upon their instructions, it will be seen that the American ministers made an actual offer to suspend the claim for indemnities till France should be satisfied as to her political rights under the treaties. On the 15th of July they made this proposition to the French negotiators:

"Indemnities to be ascertained and secured in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article stipulating free admission, in the ports of each, for the privateers and prizes of the other, to the exclusion of their enemies."

This, it will be at once seen, was a direct offer to suspend the claims of our own citizens till our Government should be willing to renew to France the obligation of the treaty of 1778. Was not this an offer to make use of private property for public purposes?

On the 11th of August, the French plenipotentiaries thus write to the ministers of the United States:

"The propositions which the French ministers have the honor to communicate to the ministers plenipotentiary of the United States are reduced to this simple alternative:

"Either the ancient treaties, with the privileges resulting from priority, and a stipulation of reciprocal indemnities;

"Or a new treaty, assuring equality without indemnity."

In other words, this offer is, "if you will acknowledge or renew the obligation of the old treaties, which secure to us privileges in your ports which our enemies are not to enjoy, then we will make indemnities for the losses of your citizens; or, if you will give up all claim for such indemnities, then we will relinquish our especial privileges under the former treaties, and agree to a new treaty which shall only put us on a footing of equality with Great Britain, our enemy."

On the 20th of August our ministers propose that the former treaties, so far as they respect the rights of privateers, shall be renewed; but that it shall be optional with the United States, by the payment, within seven years, of three millions of francs, either in money or in securities issued by the French Government for indemnities to our citizens, to buy off this obligation, or to buy off all its political obligations, under both the old treaties, by payment in like manner of five millions of francs.

On the 4th of September the French ministers submit these propositions:

"A commission shall regulate the indemnities which either of the two nations may owe to the citizens of the other.

"The indemnities which shall be due by France to the citizens of the United States shall be paid for by the United States, and in return for which France yields the exclusive privilege resulting from the 17th and 22d articles of the treaty of commerce, and from the rights of guaranty of the 11th article of the treaty of alliance."

The American ministers considered these propositions as inadmissible. They, however, on their part, made an approach to them, by proposing, in substance, that it should be left optional with the United States, on the exchange of the ratification, to relinquish the indemnities, and in that case, the old treaties not to be obligatory on the United States, so far as they conferred exclusive privileges on France. This will be seen in the letter of the American ministers of the 5th of September.

On the 18th of September the American ministers say to those of France:

"It remains only to consider the expediency of a temporary arrangement. Should such an arrangement comport with the views of France, the following principles are offered as the basis of it:

"1st. The ministers plenipotentiary of the respective parties not being able at present to agree respecting the former treaties and indemnities, the parties will, in due and convenient time, further treat on those subjects; and, until they shall have agreed respecting the same, the said treaties shall have no operation."

This, the Senate will see, is substantially the proposition which was ultimately accepted, and which formed the second article of the treaty. By that article, these claims, on both sides, were postponed for the present, and afterwards, by other acts of the two Governments, they were mutually and for ever renounced and relinquished.

And now, sir, if any gentleman can look to the treaty, look to the instructions under which it was concluded, look to the correspondence which preceded it, and look to the subsequent agreement of the two Governments to renounce claims, on both sides, and not admit that the property of these private citizens has been taken to buy off embarrassing claims of France on the Government of the United States, I know not what other or further evidence could ever force that conviction on his mind.

I will conclude this part of the case by showing you how this matter was understood by the American administration which finally accepted the treaty, with this renouncement of indemnities. The treaty was negotiated in the administration of Mr. Adams. It was amended in the Senate, as already stated, and ratified on the third day of February, 1801, Mr. Adams being still in office. Being thus ratified, with the amendment, it was sent back to France, and on the thirty-first day of July the First Consul ratified the treaty, as amended, by striking out the second article, but accompanied the ratification with this declaration, "Provided that, by this retrenchment, the two States renounce their respective pretensions, which are the object of the said article."

With this declaration appended, the treaty came back to the United States. Mr. Jefferson had now become President, and Mr. Madison was Secretary of State. In consequence of the declaration of the French Government, accompanying its ratification of the treaty, and now attached to it, Mr. Jefferson again referred the treaty to the Senate, and, on the 19th of December, 1801, the Senate resolved that they considered the treaty as duly ratified. Now, sir, in order to show what Mr. Jefferson and his administration thought of this treaty, and the effect of its ratification, in its then existing form, I beg leave to read an extract of an official letter from Mr. Madison to Mr. Pinckney, then our minister in Spain. Mr. Pinkney was at that time negotiating for the adjustment of our claims on Spain; and, among others, for captures committed within the territories of Spain, by French subjects. Spain objected to these claims, on the ground that the United States had claimed redress of such injuries from France. In writing to Mr. Pinckney, (under date of February 6, 1804,) and commenting on this plea of Spain, Mr. Madison says:

"The plea on which it seems the Spanish Government now principally relies, is the erasure of the second article from our late convention with France, by which France was released from the indemnities due for spoliations committed under her immediate responsibility to the United States. This plea did not appear in the early objections of Spain to our claims. It was an afterthought, resulting from the insufficiency of every other plea, and is certainly as little valid as any other.

"The injuries for which indemnities are claimed from Spain, though committed by Frenchmen, took place under Spanish authority; Spain, therefore, is answerable for them. To her we have looked, and continue to look, for redress. If the injuries done to us by her resulted in any manner from injuries done to her by France, she may, if she pleases, resort to France as we resort to her. But whether her resort to France would be just or unjust is a question between her and France, not between either her and us, or us and France. We claim against her, not against France. In releasing France, therefore, we have not released her. The claims, again, from which France was released, were admitted by France, and the release was for a valuable consideration, in a correspondent release of the United States from certain claims on them. The claims we make on Spain were never admitted by France, nor made on France by the United States; they made, therefore, no part of the bargain with her, and could not be included in the release."

Certainly, sir, words could not have been used which should more clearly affirm that these individual claims, these private rights of property, had been applied to public uses. Mr. Madison here declares, unequivocally, that these claims had been admitted by France; that they were relinquished by the Government of the United States; that they were relinquished for a valuable consideration; that that consideration was a correspondent release of the United States from certain claims on them; and that the whole transaction was a bargain between the two Governments. This, sir, be it remembered, was little more than two years after the final promulgation of the treaty; it was by the Secretary of State under that administration which gave effect to the treaty in its amended form, and it proves, beyond mistake and beyond doubt, the clear judgment which that administration had formed upon the true nature and character of the whole transaction.

I have said nothing, sir, of the Louisiana treaty, because neither that treaty, nor any thing done under it, affects this question in the slightest degree. Great mistakes, I am aware, have existed on this point. The honorable member from New York [Mr. WRIGHT] candidly acknowledged that he himself had partaken in this misapprehension; but as he and others who have opposed the bill admit that the Louisiana treaty is not connected with this subject at all, I will not detain the Senate with remarks upon it. Suffice it to say, that the demands provided for by that treaty were only certain debts arising in contract, or due for detention of vessels by embargo, and for certain vessels not condemned at the date of the treaty of 1800, and that none of them arose from illegal captures and condemnations. And the Senate will see that, to avoid all ambiguity on that point, this bill expressly excludes from its provisions all claims which were paid, in whole or in part, under that treaty.

It only remains to show the reasonableness of the amount which the bill proposes to distribute. And this, it must be admitted, can only be fixed by estimate, and this estimate may be formed in various ways. So far as can be learned from official reports, there are something more than six hundred vessels, with their cargoes, which will be supposed to form claims under this bill. Some of them, it is probable, may not be good claims; but a very great majority of that number will be no doubt just and fair cases.

Then, the question is, what may be regarded as a just average value of each vessel and cargo? And this question is answered, in a manner as satisfactory as the nature of the case allows, by ascertaining the average value of vessels and cargoes for which compensation has been awarded under the treaty with Spain. That average was $16,800 for each vessel and cargo; and taking the cases coming under this bill to be of the same average value, the whole amount of loss would exceed ten millions of dollars, without interest.

On this estimate it seems not unreasonable to allow the sum of $5,000,000, in full satisfaction for all claims. There is no ground to suppose that the claimants will receive, out of this sum, a greater rate of indemnity than claimants have received who had claims against Spain; or than other claimants against France, whose claims have not been relinquished, because arising since 1800, will receive under the provisions of the late French treaty.

Mr. President, I have performed the duty of explaining this case to the Senate, as I understand it. I believe the claims to be as just as were ever presented to any Government. I think they constitute an honest and well-founded debt, due by the United States to these claimants; a debt which, I am persuaded, the justice of the Government, and the justice of the country, will, one day, both acknowledge and honorably discharge.

Mr. CALHOUN, after Mr. WEBSTER had concluded, spoke a short time in opposition to the bill.

Messrs. CLAY and WEBSTER replied to the objections of Mr. CALHOUN.

Mr. BIBB again expressed his desire to make a very few remarks on the subject; and for this purpose, on motion of Mr. CLAY,

The Senate adjourned.

TUESDAY, JANUARY 13.

FRENCH SPOLIATIONS.

After transacting the usual business of the morning,

The Senate took up for consideration the special order of the day, being the bill granting indemnity to United States citizens for spoliations committed by France on American commerce prior to the year 1800; when

Mr. BIBB rose and addressed the Senate as follows:

Mr. B. said he agreed with the Senator from Massachusetts, [Mr. WEBSTER,] that the subject partakes much of the character of a judicial question, to be decided by the effect of treaties and the general law of nations.

That private property shall not be taken, nor applied to public use, without just compensation, is a principle of equity ingrafted into our constitution; not made by it, but expressly recognised, because it was pre-existing, universal, and immutable.

The property proposed to be compensated by this bill was not taken by the Government of the United States, but by the Government of France and French citizens, against the consent of the United States, in violation as well of the law of nations as of treaties then subsisting between the United States and France. They commenced in 1793, and run to the 30th September, 1800.

The argument is, that the United States have applied these claims of American citizens to their use, in exchange for indemnities due by the United States to France, on account of the supposed breach committed by the United States of the guarantee of the French West India possessions, contained in their treaty of alliance of the fifth of February, 1778, and for a release of that guarantee. To maintain that argument, the treaty of amity and commerce between the United States and France of the 6th February, 1778, the treaty of alliance of same date, and the consular convention of the 14th November, 1788, are relied on as having been subsisting and undischarged obligations on the United States at the making of the treaty of the 30th September, 1800: moreover, that a *casus fœderis*, provided for in the treaty of alliance, had occurred; that the United States had not kept their stipulation to guaranty the French possession of the West India islands; and to purchase their release from France for that past breach, and from the obligation of the guarantee in future, they had released to France the claims of the American citizens.

These releases are supposed to have been wrought by the united effects of these causes—the act of the Senate in expunging the second article of the treaty of 1800; the assent of France to that retrenchment, with the declaration, "provided that by this retrenchment the two States renounce the respective pretensions which are the object of the said article; and the acceptance of such ratification from France, by the treaty-making power of the United States.

If that guarantee was a subsisting obligation at the signature of the treaty of 1800, and if the United States have purchased their release from the guarantee, or from indemnities due to France for a past breach of that guarantee, in consideration of the claims of American citizens on France, then indeed compensation is due to such citizens.

Government ought to protect its citizens in their lawful pursuits against the aggressions of foreign Powers, if such acts be committed against the law of nations or of treaties. The Government is bound to come to the assistance of its citizens in seeking retributions for injuries, if denied by the aggressor.

But these rights of the citizens to protection, and this duty of the Government to aid and assist in seeking retribution, is circumscribed and held in subjection to the general welfare. The Government ought to prosecute the claims of its citizens upon a foreign Government with diligence and good faith. The citizens have a right to expect that their claims to compensation shall not be injured by any ill conduct of their own Government. But no citizen has the right to demand that his claim upon a foreign Government shall be pushed by his own Government to the extremity of war, much less to a war which is inconsistent with the general weal, and may endanger the national existence and independence. Such are the limitations, without dissent, promulgated by those eminent writers who have treated of the law of nature and of nations, as a system of morality, jurisprudence, and politics.

Under a most solemn impression of the high obligation imposed by the constitution of the United States to protect our foreign commerce, as being one among the leading inducements to its adoption; and under a full persuasion that an established character of Government for the observance of justice and good faith is above all price, (for such a character can command the surplus wealth of its citizens and of the world,) I proceed to examine the conduct of the Government of the United States relative to the claims now brought up for compensation.

When President Washington issued his proclamation of neutrality of the 22d April, 1793, a state of war existed between Austria, Prussia, Sardinia, the United Netherlands and Great Britain, of the one part, and France on the other. That man, justly styled "first in war, first in peace, and first in the hearts of his countrymen," took this position for his country after a mature deliberation, aided by the counsel of those eminent statesmen and jurists who stood responsible to him and to the people for the fidelity of their counsels. Mr. Jefferson, then Secretary of State, Mr. Hamilton, the Secretary of the Treasury, and Mr. Edmund Randolph, the Attorney General, were of the number of those distinguished citizens to whose researches and discussions President Washington had recourse, on questions of great public concern, to assist his own unrivalled judgment in coming to a just conclusion. After mature deliberation upon the then existing state of things, as the Senator from Missouri [Mr. BENTON] has well demonstrated, President Washington adopted and pursued the enlightened policy of observing a strict neutrality, cultivating the friendship of all, and observing existing treaties with good faith. He determined that the United States were of right to be respected as a neutral in that war.

His proclamation, with his instructions to the collectors, were alluded to in his speech to both Houses of Congress on the 3d December, 1793, at the opening of their ensuing session, and were laid before them. The addresses of the Senate and of the House of Representatives, respectively, in answer, express, for each House, their hearty approbation. The Senate said:

"As the European Powers with whom the United States have the most extensive relations, are involved in war, in which we had taken no part, it seemed necessary that the disposition of the nation for peace should be promulgated to the world, as well for the purpose of admonishing our citizens of the consequence of a contraband trade, and of acts hostile to any of the belligerent

parties, as to obtain, by a declaration of the existing legal state of things, an easier admission of our right to the immunities of our situation: we therefore contemplate with pleasure the proclamation by you issued, and give it our hearty approbation. We deem it a measure well-timed and wise."

The address of the House of Representatives is equally explicit in the expressions of their "approbation and pleasure" at witnessing the proclamation. They commend it as an act of proper vigilance to guard against an interruption of the blessings of peace, and as promoting, "by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation."

The neutrality of the United States, upon the breaking out of the war between France and the Powers of Europe, was that "legal state of things."

In the speech of President Washington to both Houses of Congress, on the 19th November, 1794, after alluding to our intercourse with foreign nations, and to circumstances which would be transmitted, he proceeds:

"However, it may not be unreasonable to announce that my policy, in our foreign transactions, has been to cultivate peace with all the world; to observe treaties with pure and absolute faith; to check every deviation from the line of impartiality," &c.

The Senate and House of Representatives again approved the policy pursued towards foreign Powers. The Senate's address concludes thus: "At a period so momentous in the affairs of nations, the temperate, just, and firm policy that you have pursued in respect to foreign Powers, has been eminently calculated to promote the great and essential interests of our country, and has created the fairest title to the public gratitude and thanks."

Such were the decisions of the executive and legislative councils of the United States upon "the then existing legal state of things." The right and the duty of the United States to be neutral, and to demand and insist upon the immunities of our situation as a neutral nation, is most emphatically pronounced by those whose powers and duties devolved upon them the high trust of maintaining the national faith, and watching over the welfare of that generation, and they did so decide. That decision was thenceforward sustained and acted upon by both Houses of Congress during President Washington's and President Adams's administrations, down to the final ratification of the treaty of the 30th of November, 1800.

The views and policy of the French Republic, as declared by her accredited minister, corresponded with that of the United States in respect to the neutrality of the United States. The communication of citizen Genet, the minister of France, of the 23d May, 1793, to Mr. Jefferson, Secretary of State, so far from claiming from the United States an abandonment of their neutrality, announces the desire of France "to increase the prosperity and add to the happiness which she is pleased to see them enjoy." "The obstacles raised with intentions hostile to liberty, by the perfidious ministers of despotism, whose object was to stop the rapid progress of the commerce of the Americans, and the extension of their principles, exist no more. The French Republic, seeing in them but brothers, has opened to them, by the decrees now enclosed, all her ports in the two worlds; has granted them all the favors which her own citizens enjoy in her vast possessions; invited them to participate the benefits of the navigation, in granting to their vessels the same rights as to her own," and professed himself authorized to enter into a new compact.

In the progress of the discussions between the two Governments, the minister of the United States pressed the great advantages which France derived from the neutrality of the United States, in receiving supplies and carrying on her commerce. France was fully sensible of these advantages. She saw that her West India possessions could be more effectually supplied with provisions, and her goods in neutral bottoms more advantageously secured from the captures of her enemy, and her own vessels of war and private armed vessels as well as her merchantmen more conveniently sheltered and accommodated in the ports of the United States, as neutral, than as belligerent. The guarantee was never a subject of demand, or of complaint, or of indemnity. In the instructions of Mr. Randolph, Secretary of State, to Mr. Monroe, plenipotentiary to France, of the 10th June, 1794, the Secretary says: "From Mr. Genet and Fauchet we have uniformly learned that France did not desire us to depart from the neutrality, and it would have been unwise to have asked us to do otherwise: for our ports are open to her prizes while they are shut to those of Great Britain; and supplies of grain could not be furnished to France with so much certainty, were we at war, as they can even now, notwithstanding the British instructions.

As late as the 11th of March, 1796, the Minister of Foreign Affairs, Ch. de la Croix, addressed to our minister in France a summary exposition of the complaints of the French Republic against the United States. The subject of the guarantee forms no part of that statement.

The complaints of the United States against France commenced in a decree of the 9th of May, 1793—in violation of the treaty of amity and commerce of 1778—which decree authorized French ships of war and privateers to stop and bring into the ports of the Republic neutral vessels laden with provisions belonging to neutrals, destined for enemy ports, or with merchandise belonging to enemies. Merchandise belonging to enemies to be good prize and confiscated for the benefit of the captors—the provisions belonging to neutrals to be paid for. Citizen Genet, the minister of France, granted military commissions to American citizens in the ports of the United States, armed and equipped vessels in our ports to cruise against nations at peace with the United States; exercised admiralty and maritime jurisdiction in condemning captured vessels brought into the ports of the United States—he threatened to appeal from the President to the people, and otherwise so disrespected the jurisdiction and authorities of the United States as to produce his recall by the French Republic at the request of the President. Without going into a tedious detail of French aggressions, it is sufficient for the present purpose to allude to the claims of American citizens as classified by our minister in France in 1794; and again as reported in 1797, in obedience to a resolution of the Senate, and communicated by the Secretary of State, Mr. Pickering, on the 28th February, 1798.

1st. Captures sanctioned by the decree of 1793, before stated.

2d. Condemnations of vessels and cargoes under marine ordinances of France, contrary to the treaties between the two countries.

3d. Spoilations and captures of American vessels at sea by French ships of war and privateers.

4th. For the detention of American vessels by the same embargo at Bordeaux.

5th. Seizure and forced sales of cargoes, and applying them to public use, without payment, or without adequate payments.

6th. Non-performance of contracts made by the agents of the Government for supplies.

7th. Non-payment of bills drawn, and debts contracted, by the agents of the Government in the West Indies.

The depredations at sea by the public and private armed vessels were continued under the sanction of the decrees of the French Directory; and it appears by the letter of Mr. Monroe, our minister at Paris, of the 16th

of February, 1796, to Mr. Pickering, the Secretary of State, our Government was informed that the French Minister of Foreign Affairs had announced to him that the Directory of France considered the alliance as ceasing to exist from the moment our treaty of 1794, with Great Britain, was ratified. And on the 20th of February, 1796, the same minister again repeated to our minister, that, by the treaty of 1794 with Great Britain, "ours with France was annihilated."*

On the 7th July, 1798, an act was passed by the Congress of the United States, and approved by the President, entitled "An act to declare the treaties heretofore concluded with France no longer obligatory on the United States." [Here Mr. B. read that act, in the following words:]

"Whereas the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government, and the just claims of the United States for reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity: and whereas, under authority of the French Government, there is yet pursued against the United States a system of predatory violence, infracting the said treaties, and hostile to the rights of a free and independent nation:

"SEC. 1, *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the United States are of right freed and exonerated from the stipulations of the treaties, and of the consular convention, heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government and citizens of the United States."

The facts recited in that act, of repeated infractions on the part of the French Government, refusal of demanded reparation, the indignities offered to our ministers authorized to negotiate, and of predatory violence, were notorious at that day, and are fully sustained by the diplomatic correspondence, from 1793 down to that time.

Connected with this state of our foreign affairs, about thirty acts were passed.

Volume iii., page 46, chapter 55. An act appropriating eight hundred thousand dollars to purchase cannon, small arms, ammunition, and military stores.—May 4, 1798.

Page 47, chapter 56. An act appropriating eight thousand dollars for purchasing or building a number of small vessels, to be fitted out, manned and armed and equipped, for the protection of the United States.—May 4, 1798.

Page 50, chapter 64. An act to authorize the President to raise a provisional army, not exceeding 10,000; privates to be enlisted for a term not exceeding three years; to be organized with a suitable number of major generals; to accept, in addition, any company or companies of volunteers, of artillery, cavalry, or infantry, who may associate and offer themselves for service; to appoint a lieutenant general, and other officers; to purchase swords, caps, sabres, pistols, and holsters; $200,000 appropriated.—May 28, 1798.

Page 54, chapter 65. An act more effectually to protect the commerce of the United States, authorizing the President to instruct the commanders of armed vessels of the United States to capture armed vessels of France, which shall have committed, or shall be found hovering on our coasts for the purpose of committing, depredations on American vessels; and to retake any ship or vessel of any citizen which may have been captured by any such armed vessel.—May 28, 1798.

Page 59, chapter 70. An act to suspend the commercial intercourse between the United States and France, and the dependencies thereof.—June 13, 1798.

Page 64, chapter 72. An act to increase the strength of revenue cutters for defence against hostilities near the sea coast.

Page 65, chapter 74. And supplementary, and to amend the act authorizing the President to raise a provisional army.

Page 66, chapter 75. An act concerning aliens, authorizing the President to order aliens, suspected to be dangerous to the peace and safety of the United States, to depart, &c.—June 25, 1798.

Page 68, chapter 77. An act to authorize the defence of the merchant vessels of the United States against French depredations; may oppose and defend against search, restraint, or seizure; may repel any assault or hostility, and subdue and capture such assailant, and retake any vessel owned by a citizen of the United States, which may have been captured by any vessel sailing under French colors, or under any authority of the French Government; such captured vessels may be condemned, and sold as lawful prize, &c.; the prisoners taken in such vessel to be delivered over to a collector, to wait the pleasure of the President.—June 25, 1798.

Page 71, chapter 79. An act in addition, and more effectually to protect the commerce and coasts of the United States. French armed vessels captured, with guns, tackle, and apparel, goods, and effects, liable to forfeiture and condemnation as lawful prize. Officers and crews of captured vessels may be confined in places of safety.—June 28, 1798.

Page 72, chapter 80. An act appropriating $80,000 for expenses, &c., of new regiment of artillerists and engineers.—June 30, 1798.

Page 72, chapter 81. An act authorizing not more than twelve vessels (in addition to those before authorized) to be purchased, armed, and equipped.—June 28, 1798.

Page 74, chapter 82. $400,000 appropriated to purchase thirty thousand stand of arms.

Page 74, chapter 83. An act concerning alien enemies; how to be disposed of in case of declaration of war; or any predatory incursion perpetrated or attempted.

Page 76, chapter 85. An act farther to protect the commerce of the United States, authorizing the President to instruct the public armed vessels of the United States to subdue, seize, and take any armed French vessel which shall be found within the jurisdictional limits of the United States, or elsewhere, on the high seas, and such captured vessel, with her apparel, guns, and appurtenances, and goods or effects, being French property, may be proceeded against and condemned as forfeited.

Private armed ships and vessels of the United States may be specially commissioned and authorized to capture any armed French vessels, and to have them adjudicated and condemned as lawful prizes, and to retake American vessels captured by French vessels. The prisoners to be reported to collectors, &c.—July 9, 1798.

Page 79, chapter 87. An act for valuation of lands, dwelling-houses, and slaves. $150,000 appropriated to defray expenses.—July 9, 1798.

Page 98, chapter 92. An act to lay and collect a direct tax of two millions of dollars.—July 14, 1798.

Page 107, chapter 93. An act to augment the army of the United States, and for other purposes. The strength of former regiments were increased. In addition to present military establishments, the President

* See American State Papers, by Gales and Seaton, vol. 1, p. 730, 731.

was authorized to raise twelve regiments of infantry and six regiments of dragoons, to be enlisted for and during the continuance of the existing differences between the United States and France, &c.—July 16, 1798.

Page 111, chapter 96. An act to enable the President to borrow for the public service a sum not exceeding five millions of dollars, in addition to the sums to be received from taxes.—July 16, 1798.

Page 112, chapter 99. An act appropriating six hundred thousand dollars for building three additional ships of not less than thirty-two guns each.—July 16, 1798.

Page 113, chapter 101. An act appropriating $900,000 for defraying the expenses of the additional army, and the farther sum of $75,000 for fortifications. Also, authorizing the President to borrow two millions of dollars upon the credit and in anticipation of the direct tax.—July 16, 1798.

Page 116, chapter 105. To amend the act to suspend the commercial intercourse between the United States and France, and the dependencies thereof.—July 16, 1798.

Page 118, chapter 107. An act farther to suspend the commercial intercourse between the United States and France, and the dependencies thereof.—February 15, 1799.

Page 129, chapter 119. An act for augmentation of the navy, authorizing six additional ships of war of not less than seventy-four guns, and to build or purchase six sloops of war of eighteen guns each, to be built, procured, and manned for service, as soon as may be. The sum of one million of dollars appropriated therefor.—February 29, 1799.

Page 130, chapter 123. An act to alter the stamp duties heretofore imposed, and to amend the said act.—February 28, 1799.

Page 132, chapter 124. An act concerning French prisoners that have been, and may be, captured and brought into the United States.—February 28, 1799.

Page 261, chapter 137. An act giving eventual authority to the President, in case of a war or imminent danger of invasion, to organize, and cause to be raised, twenty-four regiments of infantry, a regiment and battalion of riflemen, a battalion of artillerists and engineers, and three regiments of cavalry, to be enlisted for a term not exceeding three years. To organize such companies as have been or shall be accepted by him, and to call forth and employ not exceeding 75,000 men. The sum of two millions appropriated for the purposes of this act, and authorized to be borrowed by the President.—March 2, 1799.

Page 284, chapter 151. An act authorizing the President of the United States, in certain cases of the death or punishment of citizens of the United States on board of French vessels, to cause the most rigorous retaliation to be made on French citizens captured in pursuance of the laws of the United States.—March 3, 1799.

Page 305, chapter 164. An act farther to suspend the commercial intercourse between the United States and France, and the dependencies thereof.—February 27, 1800.

Page 344, chapter 181. An act to continue in force an act to authorize the defence of the merchant vessels of the United States against French depredations.—April 22, 1800.

By force of these laws of the United States, and the decrees of France, the armed vessels of the United States were brought into collision with the armed vessels of France, both public and private. Hard-fought battles ensued. Public and private vessels were subdued, seized, libelled, and condemned as lawful prize to the captors; about eighty armed vessels of France were taken. A naval warfare was waged.

But it is said it did not have the effect of abrogating pre-existing treaties, or cancelling pre-existing claims for retributions or indemnities; because it was not a general war; because no war was declared; because the armaments and enactions on the part of the United States professed to be defensive, for the protection of the commerce of the United States. Yet it is true that this was war in fact; war after repeated demands and refusals of retributions for past injuries; after the refusal of France to receive our special envoy and minister plenipotentiary, Mr. Charles C. Pinckney, clothed with full powers to treat of all complaints on either side, after the commercial intercourse between the two countries had been interdicted by the United States; after the Minister of Foreign Affairs of France had announced to our minister at Paris, that the French Directory considered the treaty between the United States and France "as ceasing to exist," as "annihilated;" after the subsequent aggressions of France corresponded with that annunciation; and after the act of the Congress of the United States of the 7th of July, 1798, had declared the treaties theretofore concluded with France no longer obligatory on the United States.

It is true that the acts of 28th May, 1798, and 25th of June of that year, for protecting our commerce, confined captures, to be made by our armed vessels, to such vessels of France as had committed, or were hovering on our coast to commit depredations, or to the recapture of American vessels captured by French vessels. But the act of July 9th, 1798, (after the abrogation of the treaties was declared,) authorized the public and private armed vessels of the United States "to subdue, seize, and take, any armed French vessel within the jurisdictional limits of the United States, or elsewhere, on the high seas," without other qualification.

It is true that this fighting was not in pursuance of any formal declaration of war by either party. Yet the conflicts were again and oftentimes repeated by the authority of the public laws and decrees of the two countries. The laws of the United States authorized prizes, prisoners, and retaliations to be made of French vessels and upon Frenchmen.

Three definitions of war have been given by eminent writers. Cicero defines war a contention by force: Vattel says war is that state in which we prosecute our right by force: Bynkershoek defines it a contest carried on between independent persons, by force, or fraud, for the sake of asserting their rights. Others say that the practice has prevailed to signify by that name "not an immediate action, but a state of affairs; so that war is the state of contending parties considered as such." "There may be no actual fighting, and yet a state of hostility may have begun. War denotes the whole time employed in making preparations for fighting, or in acts of hostility. Battle denotes an actual engagement. This principle, admitted by the writers on the law of nations, was the foundation of the message of the King to both Houses of the British Parliament previously to the commencement of the war in 1803. The preparations making in the ports of France and Holland created just alarm, as indicating the hostile intentions of France towards Edgland: in consequence of which the British Government immediately adopted the most vigorous measures."

According to these definitions of war, the state of affairs between the United States and France, from the 9th of July, 1798, to the 30th of September, 1800, was not a state of peace. The United States had sought, by negotiation, retribution for the past, and security against future aggressions, without success. To meet this state of affairs, the army and navy was increased; munitions of war had been provided. The preparations and demonstrations for forcible redress, were as formidable

as the population and resources of the United States, at that time, would justify. The ships of war and private armed vessels, by authority of law, were instructed to subdue, seize, and take, the public and private armed vessels of France, and many battles upon the ocean ensued.

I do not contend that this was a general war, which put all the citizens of the United States in hostility with all the citizens of the French Republic. It was a qualified war—a maritime war; or, as designated in the language of the day, a *quasi* war.

I have traced the actual condition of affairs, with this particularly, not with intent to deduce the abrogation of the treaties of 1778 and consular convention of 1788, as the regular consequence of war, but to impress more emphatically the posture of the two countries at the time the treaty of 1800 was negotiated.

The United States had aided their citizens in demanding retribution for spoliations upon their commerce; they had diligently, faithfully, and earnestly endeavored, by negotiation, to effect payment for injuries inflicted, and security against the future. France could not, or would not, make compensation. All that the importunity of the Government of the United States, backed by the preparations by sea and land, could effect for their citizens, was the treaty of the 30th September, 1800. These claims, proposed to be compensated by this bill, are the very causes of all the notes and preparations for war, and of this *quasi* war, to the 30th September, 1800.

President Washington, from 1793 to 1797, was unable to procure from France any satisfactory arrangement upon the subject of these spoliations.

President Adams pursued the subject diligently and faithfully unto the treaty of the 30th September, 1800. The State Papers show that, under both administrations, the negotiations were conducted with very great ability and force of argument.

A decent respect for the constituted authorities of my country, who negotiated and ratified that treaty, requires of me to say it was the best that could be obtained. The history of the state of affairs in France at that day, and review of the negotiation, a just confidence in the patriotism and judgment of my countrymen, who framed, approved, and ratified that treaty, assures me it was the best attainable. The choice of alternatives was then presented, to take such a treaty, or push on in that course of measures which was fast sweeping us into the vortex of European politics. A single progression from the *quasi* war would have plunged us into the whirlpool of the continental war.

Those who at that day filled the departments of our Government, to whom the constitution had confided the powers to conduct our foreign intercourse, and to maintain our rights and interests against foreign nations, did accede to this treaty. They had an intimate knowledge of the passing events. To them it belonged to provide for the interests and happiness of that generation. I will not sit in judgment to condemn their conduct, overhale their proceedings, and reverse their decision, after the lapse of a third of a century. If it is necessary to good order and the well-being of society that the judicial decisions of the country shall stand, it is not less so to have some stability in the political decisions of the Government upon matters confessedly belonging to the discretion and powers of the executive and legislative departments. Stability in the action of Government is necessary to confidence, good order, and human happiness.

The second article of the treaty of 1800 declares: "The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:"

ART. 3 and 4—Provide for restoring public ships taken on the one part and the other, and for property captured and not definitively condemned, contraband goods destined to an enemy's port excepted.

"ART. 5. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two nations. But this clause shall not extend to indemnities claimed on account of captures or confiscations."

The second article was expunged, with the declaration subjoined by France, "that, by this retrenchment, the two States renounce the respective pretensions which are the object of said article."

It is now contended that this retrenchment, thus effected, worked a release of the United States from the guarantee in the treaty of 1778; that this retrenchment worked a release of France from the claims of American citizens; and that the Senate expunged that article for the purpose of getting clear of that guarantee.

The gist of the argument is, that the guarantee was a subsisting obligation until released by the suppression of the second article of the treaty of 1800. That proposition is affirmed by the supporters of the bill; it is denied by the opponents. Let us examine for the purpose of arriving at the true conclusion.

Suppose the second article had been ratified. Then the treaties of 1773, and convention of 1788, would have had no operation, by the very letter of the article.

Did the retrenchment of that article leave those treaties in force? The reverse is the argument of the supporters of the bill. The abrogation of an existing and continuing obligation could not have been the motive of the Senate for expunging that which expressly declared its cessation.

Again: suppose that article had not been expunged, would the United States have been liable to their citizens to make good the French spoliations? That is not, and cannot be, pretended. The argument is, that it was the retrenchment of that article which has made the United States responsible to their citizens, by the abandonment of their claims upon France, in consideration of the release of the guarantee, likewise resulting from expunging that article.

Then the argument comes to this, that, to obtain a release of the guarantee, an article, expressly providing for such release, was expunged!

It is clear that the high contracting parties could not agree respecting the treaty of alliance, and the treaty of amity and commerce of 1778, and the consular convention of 1788, nor upon the indemnities mutually due or claimed. That retrenched article so expressly recited. Did the suppression of that article by the Senate revive and render obligatory those treaties therein already alluded to, about which the parties could not agree? The contrary is admitted. The argument asserts that the United States are now released from the stipulations of those treaties. Seeing that the stipulation in the treaty of 1800, which provided that those former treaties of 1778 and 1788 "shall have no operation," was expunged. How, by what means, did it come to pass that those former treaties became inoperative, the retrenchment of that article notwithstanding?

The true cause is, they had ceased to be binding before the treaty of 1800, and could not be revived to become obligatory but by mutual agreement of the two parties. Upon the subject of those former treaties, they

could not agree. By that very disagreement the treaties annulled remained so annulled and inoperative, the regular consequence of such disagreements, and such result was accordingly so declared. The reason for the cessation of those treaties of 1778 is to be found in the declaratory act of 7th July, 1798, founded upon the repeated infractions, indignities, and predatory violence, recited in that statute; wherefore the Congress of the United States declared them no longer binding, and proceeded to seek further redress.

But it is said this declaration is the act of but one of the parties, and the concurrence of both is necessary to abrogate a treaty. The act of the American Government is founded upon the notorious and undeniable acts of France. These very claims are now asserted upon the ground that these spoliations were committed in violation of those treaties and the law of nations. The law is well settled that between nations every stipulation in a treaty by the one party is taken as the condition and consideration for the stipulations of the other party; that a breach by the one party, in a material part, wilfully, and deliberately committed, and especially if persisted in after demand and refusal of reparation, authorizes the party thus injured to consider the whole treaty as violated, and no longer obligatory on the party so injured. The act of the party so infracting, and the act of the injured party so pronouncing upon the infraction, are acts of both parties, and sufficiently concurrent to abrogate a treaty. The fault of the one party in committing such a breach of the condition, and refusing reparation, is a declaration by him that he will not be bound, and justifies the injured party to consider himself absolved. The facts recited in the act of 7th July, 1798, being undeniably true, would have justified the United States in a declaration of war, or in any mode and measure of redress short of war. War, *ipso facto*, abrogates a treaty; and such an infraction as would justify a war will justify any milder mode or measure of redress. It belongs to the injured party to judge of the mode and measure of such redress. Such a power is inherent in every Government clothed with the duty to maintain the foreign intercourse of the nation, to defend its interests, and assert its rights against foreign Powers.

Under our constitution, the political powers of Government are intrusted to the Congress and the President. The duty and the powers to assert and maintain the rights and interests of the country against foreign nations belong to them—they have asserted and declared those rights by the act of the 7th July, 1798. What declaration did render those treaties no longer obligatory on us?

In asserting that the Congress was competent to make the declaration contained in the act of 7th July, 1798, I am sustained by the adjudication of the Supreme Court of the United States, in the case of Williams *vs.* Amroyd, 7th Cranch's Reports, p. 433. If the power does not belong to the Congress and the President, to whom does it belong? May treaties be violated by foreign nations, redress be denied, predatory violences be continued, contrary to the faith of treaties, and is there no power in the Federal Government to absolve themselves from the obligation, but by open war, or the consent of the nation so violating? Has the important power belonging to other nations of declaring that a treaty, no longer respected by the one party, but violated in its essential parts, shall no longer be binding on the injured party, been denied to the Federal Government, and become extinct in the United States?

In the course of events, from 1793 up to 1800, mutual complaints had arisen between the two Governments, of infringements of the treaty of amity and commerce, of the consular convention of 1778, which constituted mutual claims to indemnites as resulting to the respective Governments; as also to claims presented by citizens. These may be distinguished as national claims, and as individual claims. These distinctions are maintained in the instructions to our ministers in the communications between the ministers of the two Governments, and appear in the treaty itself. The second and third articles of this treaty of 1800 relate to the national claims; articles fourth and fifth, to individual claims.

All the individual claims which the Government of France aknowledged or respected as just, were provided for in the fourth and fifth articles. To escape from this meaning and effect of the fifth article, and to throw a portion of the private claims into the second article, under the head of pretensions renounced by the retrenchment, a very limited signification has been claimed for the word "debts," as there employed. It is alleged that "the debts" therein provided to be paid or prosecuted apply to such claims only as arose by contract, and not to claims founded on seizures, toils, or trespasses, contrary to the treaties and the law of nations. This narrow, technical meaning, as if used in the special pleadings of a common law forum, does not appear to my mind to be properly applicable to a treaty for adjusting the affairs and differences of nations. In transactions and treaties between States, the most liberal and enlarged signification should be adopted. The most latent and remote causes of the differences are supposed to be included in the most general terms, so that those differences shall not be surviving, but sunk in oblivion. Grotius, in his treatise on the rights of War and Peace, (book 2, chap. xvii.) in speaking of damages occasioned by injuries received, and the obligation to repair them, asserts a right to reparation for "every act of commission or neglect, repugnant to the duties required of all men, either from their common nature or particular calling; for such offences naturally create an obligation to repair the loss or injury that has been sustained." The Annotator (Campbell's Grotius, book 2, ch. xvii.) adds: "In a legal view, all penalties incurred by particular officers are debts." "The case is the same between nations, in this respect, as between individuals. One Power is bound to repair the injuries which its own subjects have done to those of another; the indemnity or satisfaction is a debt which justice requires that Power to discharge." It appears upon the face of this fifth section, "debts" were expressed in the enlarged sense just quoted, otherwise it would not have been necessary to except out of the clause "indemnities claimed on account of captures or confiscations."

The treaty of 1800 was not negotiated and signed upon the supposition that the treaties of 1778 and 1788 were then obligatory and subsisting between the two parties. France desired to renew them, but the ministers on the part of the United States refused. The ministers of both Governments were aware that nothing but a new treaty could revive the former treaties. The attempt to revive them, and the disagreement on the subject, appears by the second article of the treaty which was negotiated. If those former treaties had then been obligatory, the disagreement on the subject of a new treaty respecting them, must have left them in force and obligatory. The reverse is upon the face of the treaty acknowledged to be the effect of such disagreement. If not obligatory, and no new agreement could be had respecting them, then by such disagreement they remained inoperative; and so they were declared in the new treaty, after reciting the disagreement respecting them. Certain principles of the former treaties, about which the parties did agree, were ingrafted into the new treaty of 1800; other parts of the former treaties were adopted, as appears by comparing those of 1788 and 1778 with that of 1800. The treaty of alliance was not renewed, having been announced by France as not

obligatory on that Government, and having been likewise declared by the Government of the United States, by the act of July, 1798, as no longer obligatory upon them, followed up by a *quasi* war, the treaty of alliance was at an end; no release was necessary to make it null; a new treaty was required to give it life and obligation. Under these circumstances, France being engaged in a war with the Powers of Europe, the United States could not have, by the treaty of 1800, renewed a treaty of alliance with France without compromitting their neutrality, which the settled policy of the Government had determined to observe towards the enemies of France. For it is an acknowledged principle of the law of nations, that, after the breaking out of a war, a treaty of alliance cannot then be made with one of the belligerents by a neutral nation, without breach of the neutrality; after the beginning of the war, succors cannot be promised or sent to either friend; and that Government who will so promise or send them to one of the belligerents will violate his neutrality with the other.*

It seems clear, then, that a release from the consequences, in future, of a guarantee which had lost its obligation, could not have been the cause or consideration for expunging that second article.

So far as the argument supposes that indemnities were due to France for past breach of the guarantee, and that the United States purchased their release therefrom by expunging that second article, the position is not to be maintained. Unless the case had occurred in which France had a right, under the treaty of alliance of 1778, to demand succors of the United States, and had demanded them, then no indemnities could have been due to France on that account. That the *casus fœderis*, to which the guarantee could be applied, had not occurred, was decided by the President and the Congress in 1793. That decision was uniformly adhered to by every successive Congress down to the treaty of 1800. No decision of the Government has been more uniformly and firmly adhered to than that which proclaimed to the world, in 1793, that the former treaties with France did not, of right, oblige the United States to succor France in that war. The Government of the United States never at any time admitted that the *casus fœderis* could be applied to the war in which France was then engaged. In the instructions of June 1st, 1795, from the President, by Mr. Randolph, the Secretary of State, to our minister at Paris, Mr. Monroe, it is expressly declared that "no *casus fœderis* had arisen upon our alliance with France. We had not, nor have we yet, been required to execute the guarantee." In 1797 our envoys, Messrs. Pinckney, Marshall, and Gerry, were instructed by the President, that no *casus fœderis* under our treaty of alliance with France had occurred. It is true that, in those instructions, the President expresses his desire to get released from the future effects of the guarantee, as the *casus fœderis* might thereafter occur in some future war, "purely defensive." It is to be noted that the date of these instructions is before the act of July, 1798, which declared all our treaties with France no longer obligatory. And any proffers made under those instructions looked to a state of things very different from that which ensued the act of 7th July, 1798.

I do not feel required to go behind the decision of the President and the Congress, to argue whether the decision that no *casus fœderis* had occurred was right or wrong. Such was the decision of the Government at the time. Suffice it to say that the Government of the United States, according to established principles of international law, had the right to judge. For whether the war was just or unjust, whether France had or had not afforded any cause of hostility by fault or injury, and whether the war on her part was purely defensive, were circumstances properly connected with the treaty of alliance.* "He who has promised succors, and he alone, judges also of the justice of the cause, and whether the *casus fœderis*, as is commonly said, has taken place or not."

Propositions have been alluded to as passing between the ministers of the two parties in their various intercommunications, of proposals and counter proposals for a treaty; and it has been said that in these many millions of francs were offered by the ministers of the United States for a release of the guarantee, and that a much higer value was set upon it in the counter project of the French negotiator. As to these various communications, not accepted and not brought into the treaty, I shall not stop to inquire when they were made, whether before or after the act of 7th July, 1798, nor into the precise terms of such proposals. Because proposals met by counter proposals, and not carried into agreement by treaty signed and ratified, cannot have any obligation, as has been justly observed by the Senator from South Carolina, [Mr. CALHOUN.] It is the treaty, as ratified, that creates the obligation, not proposals which the one party or the other may have offered as the means of coming to a mutual agreement for terminating the differences and misunderstandings. Offers between individuals to pay this and that sum, in proposals for a compromise, cannot be received as evidence of debt; for every man is at liberty to buy his peace. Much less can such proposals between ministers of sovereign States, for terminating differences, be used to create obligation against the sovereign, when the treaty itself, as agreed upon and signed by the minister, must receive the ratification of the sovereign to make it obligatory. I deny that the President, or the Secretary of State, or our envoys abroad or at home, by instructions, proposals, or discussions, or reports, for or about a treaty, can bind the United States. Such a proposition as that they can so bind and compromit the interests of the United States is not to be tolerated. It is the treaty only as ratified by and with the advice and consent of the Senate that binds and creates the obligations of the United States, either express or implied. Whatsoever proposals were made touching the release of the guarantee were not accepted. The parties could not agree as appears, by the recital in the treaty. And as I have demonstrated no indemnities for breach of the guarantee were due from the United States, because no *casus fœderis* had occurred, and France had never demanded even any performance of the guarantee.

When the treaty of 1800 was made, or presented for the ratification of the Senate, no treaty of alliance with France existed, that treaty and the guarantee in it had been abrogated—no *casus fœderis* had occurred under it whilst it was in force, and the retrenchment of the second article at that time could have been desirable to the United States only for the purpose of getting clear of future negotiation upon the subjects, which promised no conclusion more fortunate than the negotiations of the preceding seven years, and for disencumbering the subjects from the embarrassments of future negotiations, whereby to insist on and obtain an easier admission to their right to the immunities of their situation of strict and unqualified neutrality. No considerations led to the suppression of that article, except those of general and public policy; no appropriations of private property were thereby made to public use: no release was purchased with the property of claims of individuals.

It has been said by the advocates of this bill, that the French Government acknowledged the justice of these

* Bynkershoek, ch. ix.

* Bynkershoek, chap. ix. Grotius, de jur. B. 1, chap. 15, sec. 13 and note 1.

claims. Were they ever liquidated? Were funds appropriated for the payment? By a decree of the convention, or of their committees, of the 15th November, 1794, certain classes of American claims were ordered to be examined by the Commissioner of Marine, for detentions by the embargo at Bordeaux, and for supplies to the administrators of St. Domingo, and to present the result of their inquiries; but no funds were appropriated for payment; the bills drawn by the Government agents in St. Domingo were ordered to be paid in assignats and mandats, both of which were greatly depreciated before they were issued; so that the liquidations under this decree were few in number and in value. But even this decree was accompanied by injunctions to all the commanders of vessels, squadrons, and naval armaments, to cause to be enforced strict compliance with the decree of 27th July, 1793, so hostile to our rights, by treaty and by the law of nations. Subsequently to this decree of 15th November, 1794, I have not found any evidence of acknowledgment, nor stipulation for payment, other than that in the fifth article of the treaty of 1800.

In reviewing the conduct of the American Government from 1793 to the final ratification of the treaty of 1800, it seems to me that the duty of endeavoring to protect the commerce of the Union; of asserting the rights, public and individual, and maintaining them against foreign Powers, were duly respected and observed. The means of fulfilling that duty were prudently selected, diligently prosecuted, and faithfully conducted. If those means did not command the full measure of protection and indemnity for injuries inflicted by foreign Powers, the fault is not with our Government. Our negotiations were conducted with very great ability. Our military and naval establishments were increased, munitions of war were provided, the physical powers of the country were put in requisition, and the sinews of war were provided. If our rights were not completely and fully protected, if full compensation to our citizens for wrongs committed was not obtained, the failure must be attributed to the peculiar temper of the times, to the gigantic struggles and peculiar character and desolations of this wide-spread warfare. If the efforts of the American Government did not obtain success, they deserved it. If our negotiators, strengthened by our preparations by sea and land, by non-intercourse, by the maritime war, by the thunders of our cannon, with the capture of eighty-three French armed vessels, could not compel France to terms satisfactory, in all respects, to our desires, there is no just cause of complaint against our Government as having done too little; the public sentiment of that day was the Government had done too much. The United States had proceeded so far in prosecution of satisfaction for these claims, and for protecting our maritime rights, that a single advance beyond would have plunged them into the open and general war then raging upon the European continent and upon the ocean. All Europe was convulsed; republican France, with gigantic strength, invigorated by a devotion to liberty, was contending with the coalition of the most formidable Powers and Potentates. In this mighty warfare ancient laws and usages respecting the rights of neutrals were disregarded by the belligerents: new principles of maritime law were proclaimed. Great Britain and France each made war upon the rights of neutrals, for the purpose of weakening the resources of the adversary; even provisions, belonging to neutrals, on board of neutral vessels, were treated as articles contraband of war, under a pretence of starving thirty millions of Frenchmen into submission. The duration and issue of the war was then beyond the ken of mortals. It only terminated with the battle of Waterloo. The soundest policy, the best interests of the United States, public sentiment, forbid them from proceeding to an open and general war, which would have endangered even our Union and independence. The councils of the United States preferred the treaty of 1800 to the hazards of the war, and ratified it, which, putting an end to the *quasi* war, enabled them to assume a position of strict and unqualified neutrality.

This *quasi* war had given rise to direct taxes, excises, and loans, to increased armies and navies. The whole community were made to bear large contribution to maintain our neutral rights, including redress for injuries which are the objects of this bill. Having done so much, the obligations of duty and regard for the private rights of our citizens involved in those measures were fulfilled. Individual rights and interests are held in subjection to the common good. No citizen has the right to require his Government to prosecute his claims upon a foreign Government to open war. That is a question of policy and regard for the general welfare. The extremities of the commonwealth are unanswerable exceptions to all sorts of private right and privileges. It is a contradiction to pretend to be a citizen under the protection of a Government, and yet to claim a right wholly inconsistent with the common safety.

Whatever losses these claimants have sustained, they flow from the injuries inflicted by a foreign Government. The principles of moral jurisprudence and politics make a distinction between the rights of a citizen when his property is taken by his own, and when taken by a foreign Government. In the first case, the citizen has a perfect right to demand, and have, of his own Government, compensation for the loss; and this obligation subsists until payment is made. Nor is the State acquit by present inability; whenever she possesses the means, the claim must be respected and paid. But for damages caused by a foreign Power, no right accrues to the citizen to demand and have compensation from his own Government. In such case the sovereign ought to interpose, as far as the situation of affairs and the common interests and safety will permit, to aid the citizen in demanding and receiving satisfaction from such foreign Power. The Government ought to show an equitable regard for such suffering of the citizen; but the extent to which that regard shall be indulged is a question of sound policy, to be judged by the State. The right of the citizen in this behalf, belongs to the class of imperfect obligations.

When we consider the conduct of the Government from 1793 down to the ratification of the treaty of 1800 —the condition of the United States, (not then recovered from the exhaustion of the Revolution,) the assiduity and good faith with which these claims were pressed upon the consideration of the French Government, the want of success, the cause of that *quasi* war, the great expenditures of the Government, the dangers of being drawn into the vortex of the European war as a belligerent, the great losses to flow from the community from persisting, and the prospect then presented to the view of that generation—we may well conclude that the Government would have been well justified in abandoning these claims for the purpose of extricating the community from a perilous condition.

It cannot be admitted that the Government is bound to be the ensurer of the commercial adventures of its citizens against the acts of foreign Governments; that private claims upon foreign Powers must be pursued by war *ad internecionem reipublicæ*, or the citizen be compensated out of the public treasury at home, if the foreign aggressor cannot be compelled to make retribution. The community is bound to take care that no injury arises to the citizen by the ill conduct of the Government; but the public is not bound for the ill conduct of a foreign Power.

At this day we are called upon to investigate and liquidate claims, all of thirty-four years, and some of forty years' standing, founded upon the aggressions of a foreign Government. These claims are to be investigated upon *ex parte* evidence taken by the claimants, interested to omit all facts bearing against them. What portion of these claims are just, what part have been paid in France, what were the circumstances of the transaction, must now be very dimly seen. And the United States and their agents, having had no act or part in the wrongs and injuries upon which these claims depend, are left to the tender mercies of the claimants themselves as to the amount of damages. Time, which secures and protects individuals from State demands upon their own transactions, does but swell the amount to be charged to the United States upon foreign aggressions.

In conclusion, I feel justified to say that the treaties of 1778 and of 1788 were not subsisting obligations upon the United States after the act of 7th July, 1798. By that act, founded upon the facts therein recited, they were abrogated; that the Congress were competent so to declare; that no *casus fœderis* had occurred for the purpose of calling the United States to execute the guarantee in the treaty of alliance; that France never demanded the execution of the guarantee; that no indemnity was due on that account; that the United States had performed to the full their duty of endeavoring to protect their citizens injured by foreign aggressions; that the United States, by the retrenchment of the second article of the treaty of 1800, did not change the existing state of things arising upon the whole treaty—the only effect was to expunge the promise of future negotiation; that no present gain did accrue to the United States by the treaty of 1800—the effects were to prevent greater loss, to extricate the country from a perilous situation, to save the further expenditure of treasure in a *quasi* war which promised no substantial benefit to the public, nor to these claimants; that the United States were not bound to prosecute these claims further, and would have been well justified in sacrificing them to terminate the *quasi* war, which had been caused in part by the desire of the Government to obtain retribution for them; that the political decisions of the Government of the United States upon the questions involved, ought to stand unimpeached and approved.

When Mr. BIBB had concluded,

Mr. SHEPLEY then moved to amend the bill, so as to make the appropriation of five millions, in full discharge of the claims.

Mr. WEBSTER had no objection to the amendment. The amount of five millions was not arbitrary; in adopting it as the amount, the committee had proceeded on the ground of a comparison of the cases with those embraced under the Florida treaty and the late treaty with France.

The amendment was then agreed to.

Mr. PRENTISS then rose and said that, having been a member of the committee which reported the bill under consideration, it might be expected that he would express some opinion upon its merits. Were it not for this circumstance, said Mr. P., I certainly should not detain the Senate a moment with any remarks of mine; but, considering the situation in which the Senate did me the honor to place me in relation to the bill, connected with its acknowledged great importance, both to the country and the claimants, it would not, perhaps, become me to remain entirely silent. I shall not, however, sir, expose myself to the imputation of inexcusable arrogance, as I surely should do by taking a course which might imply a belief on my part that I can add any thing, especially after the full and able argument of the Senator from Massachusetts, to the discussion which the subject has already received. I shall rather avoid going at large into the matter, and content myself with a somewhat general expression of my opinion, adverting, very briefly, to some of the more prominent facts, principles, and reasons, on which that opinion has been formed.

It may be proper, sir, to observe, in the outset, that I shall forbear to enter at all into the inquiry, about which so much has been said here, whether war in fact existed between the United States and France, the effect of such a state of things upon the claims, or how far the Government was bound to proceed in enforcing the claims; because, in my judgment, all these inquiries are superseded by the treaty, are altogether irrelevant, and would confuse and embarrass, rather than elucidate the subject. The United States, in my opinion, are bound by the principles assumed and acted upon in the negotiation, and cannot now recede from them. We are bound, as it respects these claims, to look to the basis on which the treaty was negotiated and concluded; and we are not at liberty to go behind or aside of the negotiation and the treaty, and assume grounds inconsistent with those on which the two Governments conducted the negotiations, and upon which the treaty was finally concluded.

Passing by, then, sir, all this, and I say it with becoming deference, as in my apprehension unnecessarily introduced into the discussion, it appears to me that the case, notwithstanding the documents connected with the subject are extremely voluminous, is embraced within very narrow limits. To my mind, it is neither complex nor difficult, but resolves itself, when divested of all irrelevant matter, into two simple points or propositions. The first goes to the validity and justice of the claims originally against France; the second, to the release or surrender of the claims by the Government of the United States, in consideration of an equivalent received. If the affirmative of these two propositions is established, the obligation of the United States to indemnify the claimants, would seem to be a conclusion to which every enlightened mind, guided by a sense of justice and good faith, must necessarily come.

These claims, sir, which are now so much contested, grew out of acts committed by France in violation of the plainest principles of national law—acts characterized by an enormity of violence and injustice of which there is scarcely a parallel in history. This has already been sufficiently enlarged upon in the course of the discussion here; and on this point I need only to refer, generally, to the instructions to our ministers to France; to their correspondence; to the various acts of Congress passed in 1798, in relation to France; to the debates in Congress of that period; and to the general sense of the nation, as expressed in the public journals of the time. These all bear unequivocal testimony to the flagrant and inexcusable wrongs committed by France on the property of our citizens; and they consequently establish, beyond all question, the justice of the claims on France for indemnity. Indeed, sir, the justice of the claims was uniformly asserted and urged by the Government of the United States throughout the negotiation. Not only so, the justice of the claims was never denied by France. Mr. Livingston, who has examined the subject with his usual characteristic ability and love of justice, in his report, says that the justice of the claims was admitted by various acts of the French Government; and he refers, particularly, to the informal negotiations carried on in 1797, when a commission was proposed to be established to liquidate the amount to be paid by the United States to the claimants, as a loan to France. And Mr. Livingston adds, that the justice of the claims was admitted in all the subsequent negotiations.

France, then, sir, did not, as she certainly could not,

deny the validity of the claims. On the contrary, she admitted them, and set up counter claims on her part—claims of indemnity for the non-performance of engagements contained in the treaties of alliance and commerce of 1778. These engagements, and particularly that which has been so often referred to here, guarantying for ever to France her West India islands, it is well known, were extremely perplexing and embarrassing to the Government of the United States. They had put in jeopardy the neutrality and peace of the country. France insisted upon the execution of these engagements, and also demanded a compensation for their non-performance.

It is said, sir, that there was no foundation for these demands on the part of France, because the guarantee was not a subsisting guarantee, but had been put an end to, together with the other engagements in the treaties, by the act of Congress of 1798. Yes, sir, the act of Congress referred to, it is true, did profess to annul the treaties; and it was that very act which consummated the breach of the treaties on the part of the United States; and showed, conclusively, that France was right, at least, in the fact upon which she founded her claims. The breach of the treaties commenced at an early day, and had continued for years, and that breach was rendered entire, complete, and perfect, by the act of which gentlemen speak. Scarcely more than a dozen years had elapsed, after France had sent her fleets and armies to fight for the United States the battles of freedom, and help to achieve their independence, before they forgot and began to disregard the engagements they had entered into with her. For this, there could be no possible excuse but on the principle of self-preservation. Solemn obligations rested upon the United States; and nothing but necessity—absolute, invincible necessity, arising out of the new and extraordinary state of things existing in Europe—could be urged as an excuse for the non-performance of the obligations. But, if unexpected events, and unprecedented circumstances abroad, rendered the United States unable to fulfil their engagements, in terms, without hazarding their national prosperity, and perhaps their national existence, they could at least yield, and were bound, by every principle, to render to France a reasonable equivalent.

Admitting, sir, that the United States might well excuse themselves from a specific execution of the stipulations in the treaties, on the special and ordinary grounds stated, they could not absolve themselves from the obligation which common reason and common justice would substitute in place of the stipulated duties. The act of Congress, it is true, was a solemn and formal declaration, on the part of the United States, that they would not execute the treaties; but it did not annul the general obligation growing out of the treaties, or extinguish the right of France to insist upon the alternative, either of their fulfilment, or an indemnity in lieu of their fulfilment. In what code of laws or morals, it may be asked, is the principle to be found, which enables one contracting party, by his own act, and at his own will, to cancel the obligation of a contract, and completely annul all right whatever of the other party under it? On general principles of law, when a contract is broken by a refusal to perform it, a new right results—a right to demand and have a compensation, in damages, for the non-performance. Neither the act of Congress which declared the treaties void and no longer obligatory, nor the great inconvenience and danger which might attend the execution of them, could extinguish, or in any way affect, the right of France, at any rate, to an indemnity. That right, at least, still remained, notwithstanding the refusal or inability of the United States to perform their engagements, and could be avoided, if avoided at all, only upon other justifiable grounds, existing distinct from and independent of those considerations. The most that can be said is, that, by the act, the United States prescribed to themselves their own rule of action under the treaties. This they might do. They could enact for themselves, but could not enact for France; and to say that their refusal, or even incapacity to execute the treaties, destroyed all right of France, arising out of the treaties, and especially the right to an indemnity for their non-performance, would be giving to those considerations an effect which does not belong, and cannot be legitimately ascribed to them.

The stipulations in the treaties, it should be remembered, sir, were, in terms, absolute, unqualified, perpetual engagements; and if the United States would not recognise them as subsisting obligations, to be specifically executed by them, they could not deny, and did not deny, that France was entitled to an equivalent for their non-performance. It is to be observed that the United States did not set up the unwarrantable depredations committed by France upon their commerce, in bar or avoidance of her claims, but urged these wrongful acts as grounds of distinct, substantive claims on the part of the United States against her. The respective claims were treated as independent, cross claims, existing and resting on their own separate foundations, and to be settled and adjusted according to their separate, intrinsic merits. France insisted, and continued to insist upon her demands, up to the conclusion of the treaty of 1800. In the formation of that treaty, the claims of both Governments were recognised as subsisting claims, and agreed to be made the subject of further negotiation at a future period. By a provision, however, subsequently annexed to the treaty by the French Government, and assented to by the United States, the claims of the two Governments were mutually released or surrendered those on one side being given up in consideration of the abandonment of those on the other.

This, sir, is, essentially and in short, the history of the negotiation; and the summary of the whole matter is, that, in the final result, the Government of the United States released France from the private claims of our citizens, for a like release on the part of France of claims growing out of national obligations imposed upon the United States by treaties. That the release of the claims on the one side was considered and treated as an equivalent for the release of the claims on the other, is evident from the whole course of the negotiation, from the treaty itself, and also from the letter of Mr. Madison to Mr. Pinckney, which has already been several times adverted to in the debate. That letter is so direct to the point, and its language withal so express and emphatic on the subject, it may not be amiss to recur to it again.

Mr. Madison says: "The claims from which France was released were admitted by France; and the release was for a valuable consideration in a correspondent release of the United States from certain claims on them."

Mr. Madison, from his connexion with the Government, must have known the understanding which existed at the time; and no one can doubt that his intimate acquaintance with public affairs enabled him to give a true construction to the transaction. His assertion is high authority to show that, in the understanding of the Government, as well as in fact, the United States did receive an equivalent or valuable consideration for the release of the claims. That this was so, is further manifest from the instructions given to our ministers to France in 1797, which were particularly referred to a few days since by the Senator from Rhode Island. By those instructions, our ministers were authorized to stipulate with the French Government to pay them the sum of two hundred thousand dollars annually, in lieu of the guarantee engagement.

In short, sir, without going further into particulars, I think it may be safely affirmed that this view of the case is supported by the whole mass of documentary evidence; and it appears to me that no one can read the volume of documents connected with the subject, without being entirely satisfied, in the first place, that the claims were just, and, in the second place, that they were released for a valuable consideration received.

If these two propositions are true; if the claims were just, were so admitted by France, and were surrendered as an equivalent for the discharge of the United States from important national obligations, the Government of the United States has appropriated private property to public use; and according to the fundamental law of the land, as well as the principles of national justice, it is bound to make compensation to the injured individuals.

Sir, I hope I may be pardoned for saying that I have spent a considerable portion of my humble life in studying the principles of law and equity, and applying them to the affairs and transactions of men; and if I have imbibed any just conception of those principles, it would be difficult to present a case against the Government of more clear and undeniable equity. I may also add, that perhaps no one here has less reason to favor these claims than I have. In the State from which I come there is not probably an individual who will derive from this bill the value of a cent. The people there have no interest in the matter, other than an interest to preserve inviolate the public faith, and maintain unimpaired the character of the Government and the country for honor and justice. In this they have, and I trust will always feel, a deep interest. It never can be otherwise with a people, where liberty and law prevail, where truth and justice are revered, and maintain their proper ascendency over the minds of men. Such a people will neither barter away national honor for money, nor withhold money at the expense of national honor and justice; and I could hardly fail to incur reproach from the people of the State I represent, if I were to refuse my vote in favor of claims, the payment of which is demanded, as in my judgment it clearly is in this case, by the high considerations of national honor and national justice.

Sir, to falsify one's own words and acts, we can readily see, would disgrace an individual; and I am altogether unable to understand how the same thing can fail to dishonor the Government. The simple question presented for my consideration and decision, and for the consideration and decision of every honorable Senator is, is this money justly due from the Government? And in deciding this short question, I, for one, cannot allow myself to yield to arguments, however ingenious or plausible, which are founded upon assumptions totally repugnant to the whole tenor of the negotiations with France, and flatly contradicted by the uniform declarations and acts of the American Government.

Mr. WEBSTER then said he did not desire the vote on the bill to be taken to-day, as some Senators were absent, in consequence of indisposition, who desired to be present when the final question was taken. If any Senator, however, wished to debate the question, he would refrain from the motion which he now wished to make to postpone the further consideration of the bill to a day, which would admit of an intermediate consideration of the subject which his honorable friend from Kentucky desired to bring forward, and of a full attendance.

No Senator rising to address the Senate, on motion of Mr. WEBSTER, the further consideration of the bill was postponed till Monday next.

FRENCH RELATIONS.

Mr. CLAY rose and said that he had yielded to the solicitations of his friends, by moving to postpone the consideration of the report and resolution of the Committee on Foreign Affairs upon our relations with France, which was made the special order for this day, till to-morrow. His sense of the necessity of a prompt disposition of this subject was so strong, that he gave notice that he would then insist upon its being taken up.

The motion was agreed to.

On motion of Mr. WHITE, the Senate proceeded to the consideration of executive business; after which,

The Senate adjourned.

WEDNESDAY, JANUARY 14.

The Senate proceeded to the special order, being the report and resolutions of the Committee of Foreign Affairs on the subject of our relations with France.

The report of the committee concludes with the following resolution:

Resolved, That it is inexpedient, at this time, to pass any law vesting in the President authority for making reprisals upon French property, in the contingency of provision not being made for paying to the United States the indemnity stipulated by the treaty of 1831, during the present session of the French Chambers.

The question being upon agreeing to the resolution as reported—

Mr. CLAY said it was not his purpose, at the present stage of consideration of this resolution, and he hoped it would not be necessary for him at any stage, to say much with the view of enforcing the arguments in its favor, which are contained in the report of the committee. In the present posture of our relations with France, the course which had appeared to him and to the committee most expedient being to await the issue of those deliberations in the French Chambers which may even at this moment be going on, it would not be proper to enter at large, at the present time, into all the particulars touched upon in the report. On all questions connected with the foreign affairs of this country, Mr. C. said, differences of opinion will arise, which will finally terminate in whatever way the opinion of the people of this country may so tend as to influence their representatives. But, said he, whenever the course of things shall be such that a rupture shall unfortunately take place between this country and any foreign country, (whether France or any other,) I take this opportunity of saying that, from that moment, whatever of energy or ability, whatever of influence I may possess in my country, shall be devoted to the carrying on that war with the utmost vigor which the arms and resources of the United States can give to it. I will not anticipate, however, such a state of things; nay, I feel very confident that such a rupture will not occur between the United States and France.

With respect to the justice of our claim upon France, for payment of the indemnity stipulated by the treaty, Mr. C. said, the report of the committee is in entire concurrence with the Executive. The opinion of the committee is, that the claims stipulated to be paid are founded in justice; that we must pursue them; that we must finally obtain satisfaction for them; and, to do so, must, if necessary, employ such means as the law of nations justifies and the constitution has placed within our power. On these points there was no diversity of sentiment between the committee and the President; there could be no diversity between either the committee or the President and any American citizen.

In all that the President has said of the obligation of the French Government to make the stipulated provision for the claims, the committee entirely concur. If the President, in his message, after making his statement of the case, had stopped there, and abstained from the recommendation of any specific measure, there could not

have been possibly any diversity of opinion on the subject between him and any portion of the country. But when he declares the confidence which he entertains in the French Government; when he expresses his conviction that the executive branch of that Government is honest and sincere in its professions, and recites the promise by it of a renewed effort to obtain the passage of a bill of appropriation by the French Chambers, it did appear to the committee inconsistent with these professions of confidence, that they should be accompanied by the recommendation of a measure which could only be authorized by the conviction that no confidence, or, at least, not entire confidence, could be placed in the declarations and professions of the French Government. Confidence and distrust (said Mr. C.) are unnatural allies. If we profess confidence any where, especially if that confidence be but for a limited period, it should be unaccompanied with any indication whatever of distrust—a confidence full, free, frank. But to say, as the President, through our minister, has said, that he will await the issue of the deliberations of the Chambers, confiding in the sincerity of the King, and this, too, after hearing of the rejection of the first bill of appropriation by the Chambers, and now, at the very moment when the Chambers are about deliberating on the subject, to throw out in a message to Congress what the President himself considered might possibly be viewed as a menace, appeared to the committee, with all due deference to the Executive, and to the high and patriotic purposes which may be supposed to have induced the recommendation, to be inconsistent to such a degree as not to be proper to be seconded by the action of Congress. It also appeared to the committee, after the distinct recommendation by the President on this subject, that there should be some expression of the sense of Congress in regard to it. Such an expression was proposed by the resolution now under consideration.

In speculating upon probabilities in regard to the course of the French Government in reference to the treaty, Mr. C. said, four contingencies might be supposed to arise: First, that the French Government may have made the appropriation to carry the treaty into effect before the reception of the President's message. Secondly, the Chambers may make the appropriation after the reception of the President's message, and notwithstanding the recommendation on this subject contained in it. Thirdly, the Chambers may, in consequence of that recommendation, hearing of it before they shall have acted finally on the subject, refuse to make any appropriation until what they may consider a menace shall have been explained or withdrawn. Or, fourthly, they may, either on that ground or on the ground of dissatisfaction with the provisions of the treaty, refuse to pass the bill of appropriation. Now, in any one of these contingencies, Mr. C. said, after what had passed, an expression of the sense of Congress on the subject appeared to him indispensable, either to the passage of the bill, or the subsequent payment of the money, if passed.

Suppose the bill to have passed before the reception of the message, and the money to be in the French treasury, it would throw upon the King a high responsibility to pay the money, unless the recommendation of the message should be explained or done away; or, at any rate, unless a new motive to the execution of the treaty should be furnished in the fact that the two Houses of Congress, having considered the subject, had deemed it inexpedient to act until the French Chambers should have had an opportunity to be heard from. In the second contingency, that of the passage of a bill of appropriation after receiving the message, a vote of Congress, as proposed, would be soothing to the pride of France, and calculated to continue that good understanding which it must be the sincere desire of every citizen of the United States to cultivate with that country. If the Chambers shall have passed the bill, they will see that though the President of the United States, in the prosecution of a just claim, and in the spirit of sustaining the rights of the United States, had been induced to recommend the measure of reprisals, yet that a confidence was entertained in both branches of Congress that there would be a compliance, on the part of the French Government, with the pledges it had given, &c. In that contingency, the expression of such a sentiment by Congress could not but have a happy effect. In the other contingency supposed, also, it was indispensable that some such measure should be adopted. Suppose the bill of appropriation to be rejected, or its passage to be suspended until the Chambers ascertain whether the recommendation by the President is to be carried out by the passage of a law by Congress, a resolution like this will furnish the evidence desired of the disposition of Congress.

If, indeed, upon the reception of the President's message, the Chambers shall have refused to make the appropriation, they will have put themselves in the wrong, by not attending to the distribution of the powers of this Government, and informing themselves whether those branches which alone can give effect to the President's recommendation would respond to it. But if they take the other course suggested, that of suspending action on the bill until they ascertain whether the legislative department of this Government coincides with the Executive in the contingent measure recommended, they will then find that the President's recommendation--the expression of the opinion of one high in authority, indeed, having a strong hold on the affections and confidence of the people, wielding the executive power of the nation, but still an inchoate act, having no effect whatever without the legislative action--had not been responded to by Congress, &c. Thus, under all contingencies happening on the other side of the water, and adapted to any one of those contingencies, the passage of this resolution could do no mischief in any event, but was eminently qualified to prevent mischief, and to secure the very object which the President doubtless proposed to accomplish by his recommendation.

Mr. C. said he would not now consume any more time of the House by further remarks, but would resume his seat, with the intimation of his willingness to modify the resolution in any manner, not changing its result, which might be calculated to secure, what on such a question would be so highly desirable, the unanimous vote of the Senate in its favor. He believed it, however, all-essential that there should be a declaration that Congress do not think it expedient, in the present state of the relations between the United States and France, to pass any law whatever concerning them.

Mr. KING, of Georgia, rose and moved to amend the resolution by striking out all after the word "*Resolved*," and inserting the words, "that as the French Chambers have been convened earlier than was expected by the President of the United States at the opening of the present session of Congress, it is inexpedient to pass any law relating to the treaty of 1831 until further information shall be received from France."

Mr. K. said he perfectly agreed with the Senator from Kentucky, that an extensive discussion was not called for; and he should not deem it necessary to say more than a few words on the change of phraseology which his amendment contemplated.

The tone and tenor of the report of the Committee on Foreign Relations, he acknowledged, with a few exceptions, met with his entire and cordial approbation. He had agreed to it, with these exceptions, in the commit-

tee, and he agreed to it here. He had agreed to a rejection of the recommendation of the President. He had agreed that we were not at present called upon for action, and that it was inexpedient, at this time, to legislate on the subject. What was the tone and character of the report of the Committee on Foreign Relations? He did not believe that it was introduced by the honorable member as a party paper. He did not believe it was presented to the committee as a party paper. He did not believe it was presented to the consideration of the Senate as a party paper. He did not believe it would be received by the people as a party paper, unless by the effects of the public press and by party politicians it should be stamped with that character. And he further agreed that, in all important points, the President was sustained by this report. In every part of the report the President was treated with the most perfect respect. The views of the President were treated with the most perfect respect. The motives of the President were treated with the most perfect respect. And even the recommendation of the President, as to the specific mode of action, is treated in the report with the most entire respect. And the inference, at least, is left upon our minds, that the only difference between the President and the committee has arisen from a difference of facts and evidence under which they were called on to act.

It would be perceived, after these views of the tone and character of the report, that the objections he had to the resolution were of no very serious character. He was merely of opinion that it was important to connect the tone of the report with that of the proposition with which it concluded. He wished to carry out the views in the report, so as to obviate any differences of opinion. These were the reasons which had actuated him in making the change in the resolution contemplated by his amendment. His object was to connect the report and resolution on the point which he had introduced, so that, in the general position, that France was in the wrong and the United States were in the right, there was no difference between the two propositions. He believed they were in perfect harmony.

The object of the latter part of the amendment was perfectly conveyed in the language.

He did not intend to commit himself or the Senate of the United States to any specific mode of action on the subject. He was disposed to hold out the idea, which he believed to be true, not only to France, but to the American people, that we are not to be tied down on the subject of the treaty; not to be so committed that we could not indulge any further action during the present session, if circumstances should arise to justify such action. Though committed to no specific action; though not pledged to adopt the action of the President; yet in the event of information being received from France of such importance as to justify action, if willing and justified, and disposed to further action, we might accordingly act. He was not particularly wedded to the language of his resolution, but he deemed that the positions on which we seemed to be unanimous should be sanctioned by something like the amendment. He did not pledge himself to vote against the resolution of the committee unless his amendment was adopted; because he agreed with the committee in the position taken in their report, that it was inexpedient to carry out the views of the President without further information.

Mr. CLAY said that it gave him very great pleasure to say that he had found the honorable Senator from Georgia actuated by the best spirit in the consideration which the committee had been called on to give to this subject. It gave him great pleasure to say that the honorable Senator was frank, open, unreserved. It also gave him great pleasure to find now, that, in the proposition offered by that gentleman, the shades of difference between it and the original resolution were so slight and unimportant. He was happy to find in the resolution now offered no ground for serious opposition.

But he must still think the resolution objectionable in two particulars. The report of the committee was an argumentative document, presenting all the reasoning from which had been deduced the conclusions to which the committee had arrived; and it was not usual to recapitulate, in the concluding resolution, the reasoning contained in the report. If the resolution repeated one of these reasons, it might, with equal propriety, be called on to repeat all the reasons in that document. One objection, therefore, was that the resolution assigned only one of the various reasons which led the committee to adopt the resolution they had reported, and that one not, in his opinion, the strongest of the reasons assigned in the report. The resolution of the Senator from Georgia assigned, as the reason for nonconcurrence in the recommendation of the President, that the French Chambers had assembled earlier than was expected when that recommendation was submitted.

His objection to the resolution in this form was that the gentleman from Georgia had drawn down into it, from the body of the report, one only of the many reasons which carried the committee to their conclusion, and that reason not the strongest. Now, if it was proper to select one of the reasons of the report, it might be proper to take all; for each Senator may be operated upon by a different reason than the one assigned in the resolution for aiming at the conclusion; and, in a body composed of forty-eight members, it was not very probable that any one of the reasons would be found to operate with equal force on all.

There had been several things left undone by France which had been promised to be done. The French Government had declared, in a letter to the Secretary of State, that they would carry the bill of appropriation into the Chamber the day after the commencement of the session. He could not say positively that this had not been done, but, as far as reports had reached us, it had not been done. The tone and spirit of the original resolution were adopted under a general impression that there existed a desire on the part of the French Government to act justly, and that the Executive Government of France were pursuing, with sincerity, every means in their power to produce that just action; and that they best understood the character of their Legislature, and the direct mode or *menagement* to be resorted to for the obtainment of the desired effect. The committee, therefore, had come to the conclusion, which he now repeated, that we ought not to throw out any reproach against the French Government, because they had not called together the Chamber sixty or ninety days earlier than it had been convened; or because they had not gone the day after the meeting of the Chamber, with the appropriation bill in their hand, to urge its passage. If the Government of France were acting in that sincerity, of which he saw no reason to doubt, they were themselves most competent to determine the course most likely to ensure success. He, therefore, could not consent to a resolution which drew down only one of the reasons contained in the report.

There was also another part of the resolution to which he could not consent. It concluded with declaring the inexpediency of acting on the recommendation of the President, until further information should be received from France. Now this language implied what all the committee, what he himself, and the Senator from Georgia, had been most anxious to avoid, and might be

viewed in the light of a menace by the French Chambers. The Chambers might argue that, as Congress had barely said that it was inexpedient to legislate until further information was received from France, the inference was, that, if the Chamber did not make the appropriation at the present session, Congress would, in that case, resort to the measure which the President had recommended. Now he was rather disposed to abide by the decision of the committee, and by the view which he had before thrown out. If he was asked what he would do, should France fail to do her duty, he could not say what he would do. "Sufficient for the day is the evil thereof." It would be necessary, before any answer to that question could be given, to be in possession of all the circumstances attending that refusal, if it should ever take place. And, until he had all that information, he was not prepared to say what would be the proper measures. The President had recommended one measure, that of a restriction on French property.

Mr. C. said that we ought to stand uncommitted as to any measure to which we might think proper to resort in the event of a final refusal of the French Chambers to pass the bill of appropriation. The President had recommended the specific measure of reprisals. He had also expressed himself adverse to commercial restrictions, for reasons which appeared to him to be conclusive. For himself, he was not now prepared, nor, in his opinion, was it expedient now to pronounce for or against any measure. Congress might, when the time came, prefer open and undisguised war. They might adopt the measure of reprisals. They might prefer the more pacific and moderate course of commercial restrictions. It was even possible that they might think it expedient to await the issue of further negotiation.

He was in favor of leaving Congress free and uncommitted; at liberty to act as they pleased, in the event of a refusal of the Chambers to make the appropriation. In every view, this absolute and entire uncommittal was desirable. As related to ourselves, we should desire every possible information before we are called upon to act. It ought to be known to us whether the King had himself abandoned our claims, or whether he would still continue to press them, Legislature after Legislature, until they were successful. We ought, therefore, to desire the most full and accurate information, and in justice to ourselves, and also in reference to this Congress, which will terminate its existence on the 3d of March, our hands ought to be left untied. The propriety of remaining uncommitted, with our hands untied, must be obvious. There would be a new Congress after the 3d of March. Ought we to commit that Congress? Or ought we not to leave that Congress as free as we ourselves are to consider the subject with all the lights, as to the concurrent circumstances which they may be able to obtain, to show the tendency of the measure which may be adopted, whether it is to the ultimate recognition of the claims, or the extinction of all hope?

With these views, he should move to amend the amendment of the Senator from Georgia, by striking out the parts to which he objected.

Mr. WEBSTER said he had prepared a proposition for the consideration of the Senate, to correspond entirely with the amendment to the amendment, which had been suggested by the gentleman from Kentucky. He (Mr. W.) thought the object of a united vote of the Senate on this important question was so great, and the practical difference of opinion, so far as he could learn, between honorable Senators, so small, that pains should be taken to throw the resolution, about to be passed, into such a shape that it may meet with the unanimous vote of the Senate. And it appeared to him to be the prevailing opinion of this body to approve entirely the general views taken in the President's message, of the nature of the controversy between the United States and France, and of the clear right of the former, as insisted upon, at least by our side of it, and also of the utter impossibility that the councils of this country, under any circumstances, can depart from their just expectation of the just, reasonable, and seasonable fulfilment of that treaty by the French Government.

Upon that point in the message in which there is made a suggestion or recommendation of a particular course of legislative action, he supposed there was no diversity of opinion in the Senate or the country. If he was right in that supposition then, and if there were various reasons, some of them occurring since the transmission of the message to Congress, which had produced a change of sentiment in the Senate, it seemed to him our course was peace, and that that determination should be expressed in the fewest words. He thought there was an objection to the amended form of the resolution, as proposed by the gentleman from Georgia, [Mr. KING,] because it placed the vote of the Senate on one of several reasons, and it left an implication in the sentiment which might be otherwise avoided, that the reason had ceased to exist, but that a certain line of conduct might be adopted, which would lead Congress to a different result.

Now, he was not prepared, nor did he wish to say what it might be necessary to do hereafter. He held it as policy and prudence to see that nothing was presented which required an intimation from the Senate as to what would be done in a future contingency. The proposition of the honorable Senator was liable to this objection: that it founds the report on reasons which may cease to exist to-morrow in effect, and we might not choose to be committed by the recommendation in the message, even if the reason did not exist at the convocation of the Chambers, supposing that the Chambers, contrary to anticipation, should reject the bill; that the executive councils of France, feeling themselves bound by good faith to fulfil the treaty, should dissolve the present Chambers, and call the new Chambers; he did not wish to say, he did not wish to predict, what would be the opinion of the Government in that state of things. In short, he desired to leave the whole question entirely open, without any stipulation, any modification, any intimation, one way or the other, what would be done hereafter.

We were likely to have further information from France shortly; and the sentiment of the country thereon, as to this great question, now was, that we are in the right and France in the wrong. Nothing, he thought, was likely to shake the general opinion of the nation on this great subject. Notwithstanding the perfect unanimity of sentiment on it, of the right and wrong of the matter, he thought we might stand safer without intimating in any degree what course we should pursue by and by.

He had therefore proposed for the consideration of gentlemen, with an anxious desire that the committee should unite themselves, and thereby unite the vote of the Senate, a resolution, which he believed was *verbatim* with the one then before the Senate, "that it is inexpedient to adopt any legislative measures with respect to the United States and France." He would not offer it, as the one before the Senate answered all the purposes of his.

Mr. BUCHANAN said he should be exceedingly rejoiced if we could adopt any form of words which would unite the vote of the Senate on this occasion. He would go as far as any man to make concessions, in any matter in which principle was not involved, for the purpose of presenting ourselves to the world as a united nation.

However we might differ amongst ourselves, as to matters of internal policy, we ought always to exhibit a bold and united front to foreign nations in defending the interests and honor of the country.

Mr. B. felt great pleasure in doing justice to the frank and conciliatory spirit of the report of the Committee on Foreign Relations. It was a statesmanlike production, worthy of its distinguished author; but, he must be permitted to say that, if this were the proper occasion for such a discussion, he thought he could successfully controvert several of the positions which it contained, and show that they were founded in error.

He would greatly prefer that the resolution proposed by the Senator from Georgia, [Mr. KING,] should stand as he had introduced it. It contained upon its face the reason, and the only reason, which would induce him to vote for any resolution of this character. It was simply because the French Chambers had been convened earlier than was expected by the President of the United States at the commencement of the present session of Congress, that he would give his support to any such resolution. He should, therefore, be gratified if this preamble could be retained.

France had, before the close of the last session of Congress, communicated to the President that it was the unanimous determination of the King's Government to appear before the new Legislature with its treaty and its bill in hand, and that its intention was to do all that the charter allowed to hasten, as much as possible, the period of the new presentation of the rejected law. On the faith of this assurance, the President rested satisfied, and did not present the subject to Congress at its last session. How has France redeemed this pledge? Has that Government hastened, as much as possible, the presentation of the rejected law? At the first meeting of the new Legislature, the law was not presented; and, in the face of this engagement, the Chambers were prorogued, not to meet in the autumn, as they might have done, but on the 29th of December, the very latest day which custom had sanctioned. If this assurance had any meaning at all, it was that the Chambers should be convened at least so early in the season as to afford sufficient time to communicate the fact to the President before the meeting of Congress. The President, at the date of the message, was not aware that the Chambers would assemble on the first of the month. No such information had been communicated to him. The French Government had never informed him such was their intention. It now appears that they did assemble on that day; and, for his own part, he was willing to wait until the result of their deliberations could be known.

What effect this circumstance might have produced on the President's determination, he was not prepared to say. Every gentleman could judge for himself. He was not possessed of any information on that subject.

There is a point, said Mr. B., in the intercourse between nations, at which diplomacy must end, and a nation must either consent to abandon her rights or assert them by force. After having negotiated for a quarter of a century, to obtain a treaty to redress the wrongs of our injured citizens; and after the French Chamber has once deliberately rejected that treaty, will not this point have been reached, should the Chamber again refuse to make the appropriation? If this be so, is it not right, is it not fair, to present this alternative to France? Would she not have just cause to complain, if we did not adopt this very course? To inform her frankly and fairly that we have arrived at this point, I am solemnly convinced is the best diplomacy to which we can resort, to redress the wrongs of the injured claimants. France will then have the alternative distinctly presented; and it will be for her to decide, whether she will involve herself in war with her ancient ally, rather than pay those claims which the executive branch of her own Government has determined to be just, by a solemn treaty. Such an attitude, on the part of the United States, will do more to accomplish the execution of the treaty than any temporizing policy which we can adopt. I never was more clearly convinced of the truth of any proposition.

France, from the tone and language of the President, will have no right to consider this a menace. It is no more than to say, diplomacy has ended, and the treaty must be executed, or we shall, however reluctantly, be compelled to take redress into our own hands. We cannot, we dare not, abandon the just rights of our own citizens, however painful it may be for us to assert them. France is a brave and a chivalrous nation; her whole history proves that she is not to be intimidated, even by Europe in arms. But France is wise as well as warlike. To inform her that our rights must be asserted, is to place her in the serious and solemn position of deciding whether she will, for the sake of a few millions of francs, more or less, resist the payment of a just debt by force. Whenever she is convinced that this result is inevitable, the money will be paid; and, although I hope I may be mistaken, I believe it will never be paid before. France has never appeared to regard the question in this serious light.

It has been asked, what would the American Congress do, placed in similar circumstances? Would they appropriate the money with a menace impending over their heads? I answer, no, never. But it would be no menace, if, after Congress had twice refused to vote an appropriation to carry a treaty into effect, a foreign Government, in the spirit of candor, in language mild and courteous, such as that used by the President, were to inform us they could not abandon their rights, and, however painful it might be, they should be compelled, by a sense of duty, to assert them by force.

Mr. B. concluded by saying he felt it due to himself thus to explain the vote which he intended to give.

Mr. CUTHBERT said he held in his hand a resolution expressive of the opinion he entertained, that phraseology might be used which would have the effect of uniting all gentlemen. The resolution was, "In the state of circumstances now existing, it is inexpedient to pass any law relating to our treaty with France." In using the expression "state of circumstances now existing," those would be satisfied who believed that no state of circumstances had yet occurred which would warrant the measure recommended by the President. And he (Mr. C.) meant also to convey, by the expression he had used, that a state of circumstances *did* exist, but that a change had now taken place which warranted further delay; which made it prudent, and which was due to the friendship which had lasted so long between the two countries, and which we ought to preserve, if possible. If it was possible, there ought to be a unanimous vote on this most important question. This was a case which demanded not only prudence, but involved the pride and honor of the American character. Whatever might have been, in by-gone days, our domestic differences, let us, at this time, when a foreigner—a strange nation—is concerned, act boldly and manfully, and show an undivided front to the world, whatever may be our divisions at home. He should like to see a resolution of this kind pass the Senate, although not exactly in the language in which he had couched his sentiments. The language of it should be such as to allow it to be so construed that it might be said, circumstances never have existed, though we were warranted by future circumstances to change our course. But circumstances now exist which render it unnecessary to point out any particular measure to be pursued.

Mr. KING, of Alabama, said that he had listened with the greatest satisfaction to the views taken by gentlemen who had addressed the Senate on both sides of the question. He thought with them that it behooved Senators, in a proper spirit and proper temper, to enter into this matter, and, by showing unanimity in our counsels, best secure the respect of the world as well as the honor and interest of the nation. The report and resolution, he said, of the Commitee on Foreign Relations had been properly characterized by all the gentlemen who had adverted to them. They were drawn in a temper and spirit which could not fail to command the approbation of all. He had from the first been one of those who had expressed the opinion that this matter should be delayed to a longer period than the present. Had it been delayed until we could have received further information on the subject, every gentleman would have come better prepared to say what would be the best course for Congress to pursue, and greater unanimity in the vote of the Senate might have been reasonably expected. He himself was not prepared at this time to say--he would not say—what Congress should do in the contingency adverted to by the Senator from Kentucky. He hoped circumstances would place it out of the power of gentlemen to say what they would do in the happening of such an event; and that France, by doing us full justice, would leave unimpaired the amicable feelings the American people have always entertained for their ancient ally. At this time it was not necessary that we should legislate on the subject. All knew that circumstances had changed since the President sent us his message; and all knew that circumstances might and probably would so change as to render any legislative action entirely unnecessary. He should hope, therefore, that his friend from Georgia [Mr. KING] would yield to the suggestions of the gentleman from Kentucky, and, in a spirit of concession, accept the slight modification of his amendment, expressing the sense of the Senate that it is inexpedient "at this time to act on the subject," and thus secure an undivided vote. He hoped, as the amendment was still in the power of his friend from Georgia, he would accept the modification which so slightly varied from his views.

Mr. LEIGH asked whether there was any essential difference between the proposition of the gentleman from Georgia, who spoke last, [Mr. CUTHBERT,] and the one submitted by his colleague, as modified by the amendment proposed by the chairman of the Committee on Foreign Relations. [He asked the Chair to read them; they were read.] He said he could not see any substantial difference between the two propositions; if there was, he should be willing to vote for that submitted by the gentleman from Georgia, [Mr. CUTHBERT,] as that proposition, as well as the gentleman's remarks, met with his entire and hearty concurrence. But, in truth, he had no preference between the two propositions; in his opinion, they both alike proposed the policy which our interest required, which prudence dictated, and national honor sanctioned; and they were both, as they ought to be, perfectly respectful towards France. It was the object of us all, he supposed, without doubt, of the President, and of every member of both Houses of Congress, to obtain payment from France of the indemnity acknowledged to be due to our citizens by the late treaty—to induce France to execute the treaty on her part. For the accomplishment of this purpose, two propositions, of opposite character, had been submitted to the Senate; the one by the President, in his late annual message, the other by the Committee on Foreign Relations. The President recommended that Congress should authorize reprisals against France, in case provision should not be made for the payment of the money stipulated by the treaty of 1831, during the present session of the French Chambers; and it was not to be supposed that any circumstances had transpired since the message, which, in the President's opinion, ought to reverse or vary the course he there recommended, otherwise the President would certainly have communicated those circumstances to us, and the change they had wrought in his own views. He took it for granted there were no new circumstances, which, in the view of the President, materially altered the state of things.

The question submitted to us, then, was this—shall we consent to adopt, or to authorize, contingently, measures of a hostile nature towards France, in the present conjuncture of affairs, for the purpose of getting payment from her of the indemnity stipulated by the treaty, and as the means best calculated to accomplish that purpose? Or shall we, for the present, still continue to rely on the sense of right and justice of France herself, and evince by our conduct a perfect confidence that she will (and that at no distant day) see that her own interest and her own honor alike require her to pay us this comparatively small sum of money so justly due to us? We have been told (said Mr. L.) by the gentleman from Pennsylvania, [Mr. BUCHANAN,] that the best, nay, indeed, the only means of obtaining justice from France, is to let her understand that, in case her Legislature shall adjourn without making an appropriation at its present session to pay this money to us, we shall resort to hostile measures of some kind or other; that he does not believe that the money will ever be paid, unless we give her such an intimation of our intentions to enforce redress; and that this frankness on our part ought not to be, and probably will not be, offensive to France. Have I understood the gentleman rightly?

[Mr. BUCHANAN replied that his opinion was this: that there was a point in the negotiations between all countries, at which negotiations must cease, and other measures of a hostile, or partially hostile, character must be resorted to by the injured party.]

Mr. LEIGH understood the gentleman to be of opinion that the time had arrived, the point was presented, in the state of our relations with France in regard to this subject, at which all pacific measures have become hopeless, and resort must be had to measures of a hostile nature of some kind or other, or an indication of such measures being intended, and that this was likely to prove efficient. From these opinions of the gentleman from Pennsylvania, Mr. L. said, he dissented entirely and absolutely. He knew no trait in the character of France, no circumstance in her present situation and relative strength, no fact in her whole history, which induced him to believe that an intimation to her of hostile measures to enforce right, if she should withhold it, would have a tendency to quicken her sense of justice, and stimulate her to render what she would not voluntarily render to our just and amicable demands. Between nations, who have constant intercourse, he said, there was no medium between friendly and hostile relations; at least, such a state could not long endure. If hostile measures should become necessary, it would be best to resort to war at once, for war would almost certainly ensue from any measures of partial hostility. If war was not intended, and, much more, if war was not anticipated, the wiser and more politic, as well as the more magnanimous and honorable course, was to place entire reliance upon, to express an undoubting confidence in, the justice, the magnanimity, the good faith of France. No member of the Senate, Mr. L. believed, was now willing to adopt the measure recommended by the President: the policy indicated by the Committee on Foreign Relations was, therefore, the only alternative; and, in adopting it, it should be our care to evince, in the strongest manner possible, our confidence in the manifest justice of our claim on France; our confidence that a wise and mag-

nanimous nation will soon discern its justice, and make provision for the payment of the debt due us.

This was, he thought, the obvious policy for us, under present circumstances. As to what might be our true policy, in any state of circumstances that might hereafter arise, Mr. L. said, it would be folly for him to give any opinion. There might be circumstances that would materially affect our course, over which we should have no control—over which France herself could have no absolute control. For instance, suppose war should suddenly break out in Europe; suppose Great Britain or Russia should declare war against France—would the gentleman from Pennsylvania be willing that the United States should also wage war against France, solely to get this money she owes us, when in so doing we should be not only accomplishing our own purposes, (if, indeed, we could thereby accomplish them,) but subserving the purpose of her European enemy too, which might be the conquest of France? In such a case, he thought the gentleman from Pennsylvania would be as apt as himself to hesitate. We could have no possible motive to conquer France ourselves; we could not possibly have any interest or desire to weaken her, much more to see her subdued by others. Our object was to obtain payment of a just debt: we had no purpose of ambition to impel us to hostilities against France; in truth, we entertained no feeling towards her which could be called resentment; we wanted the money that was due to us; and the question we had to solve was, what was the course which prudence and sound policy dictated, as best calculated to obtain it? It might affect the honor of France, if she should withhold the payment; it could not affect the national honor of the United States to wait yet a little longer, in the expectation of her voluntary justice—to abstain from measures of hostility, which would not, after all, promise certain success, and which, even if it were certain they would be successful, there were many and most weighty considerations that should persuade us to avoid, if possible, and as long as possible.

Mr. L. heartily concurred in the sentiment which other gentlemen had expressed in this debate—that, in a controversy with any foreign nation, it was the duty of us all to avoid, by all means, any collision with the executive department of our own Government. Therefore, he would not now enter into any criticism of the President's measures, if he thought them justly obnoxious to censure; saying this, he desired to be understood that he did not in fact impute any blame to the measures he had taken to obtain the execution of the treaty with France. He only differed with him in respect to the course recommended in his message; he was not prepared now to authorize reprisals against France, as a measure of redress; and he was equally averse, nay, rather more averse, from giving her any intimation that, unless she shall soon comply with our just demands, we shall resort to reprisals, or any other hostile measures, against her. If he could be brought to think such an intimation of future hostilities proper, he should be apt to go the whole length of ordering reprisals at once. He really did not anticipate that France would long persist in withholding payment of this just debt. He agreed with the gentleman from Alabama, [Mr. KING,] that it would be best to adopt the resolution of the gentleman from Georgia, modified as proposed by the amendment offered by the gentleman from Kentucky. For that proposition, it seemed to him, gentlemen who differed in some unessential particulars might all vote with that unanimity which was so desirable on such an occasion. The resolution (said Mr. L.) is, that it is not expedient, at this time—mark the force of the words, at this time—to pass any law on the subject of the treaty with France of July, 1831. We do not commit ourselves as to what we shall do, or shall not do, at any future time, or under other circumstances.

Mr. CALHOUN trusted that there would be unanimity in the views of honorable Senators on this important subject, and that such phraseology of language would be used as would indicate it. And he was very happy to hear the gentleman from Alabama make the suggestion he had to the honorable Senator from Georgia, [Mr. KING.]

Mr. KING, of Georgia, said that, to the various suggestions and propositions from different parts of the chamber, he had only a word in reply. And that was, that he was willing to accept any modification of the resolution that would unite a vote upon the subject. He would, however, whilst up, say a word in explanation of the amendment, and answer some objections which had been made to it. In answer to the Senator from Kentucky, he would say that he selected the one reason as that which separated the committee from the President, not only because it was that mentioned in the report, but because it seemed to include all the rest. It had been said by the honorable Senator, truly, that France had promised to do several things which she had not performed, besides an early assembling of the Chambers, some of which might, with equal propriety, be referred to. True: but the assembling of the Chambers being in general necessary for the performance of the other promises, we were led to hope that, the Chambers being now convened, the performance of all her other promises would follow. And he wished further distinctly to convey the idea to France, that, as the Chambers had assembled, we expected that they would do all that was necessary, before they were prorogued, to fulfil the execution of the treaty.

It was objected, he said, to the language of the amendment, that we seemed by it pledged to action, when further information might be received from France. He had no such intention; and if such construction were found, he would be willing to change the language, and say, "unless further information from France shall justify legislation," &c. He said there was not a Senator in the hall more unwilling to commit himself or the Senate to specific action on this subject than himself; but whilst he did not wish to commit himself to act, he did not wish to commit himself not to act, if action should be called for. He would not even at this time commit himself to hostile action, if there should be another simple refusal by the Chambers to make the appropriation. But he said there were a large portion of the people of the United States who thought that France had already treated us with much indignity, and if there should be another refusal, coupled with an acknowledged insult, he would not say even then what should be done. It would be time enough to decide upon the mode of action when action might be thought necessary. But for the present he would say, that the United States were now out of the nursery; and although, as a nation, we may not have arrived at the years of maturity, we were at least in a condition to act for and take care of ourselves. He concluded by saying he had no material objection to the modification proposed, if it would unite both parties in the vote; and unless some gentleman objected, he should take it for granted that there was a general acquiescence.

Mr. CUTHBERT wished to know what was the difference between the resolution by the honorable chairman of the Committee on Foreign Relations, as amended by the gentleman from Georgia, [Mr. KING,] and the amendment he (Mr. C.) proposed. The difference was, that the first set forth the inexpediency of passing any law at this time, while his was "in the existing state of circumstances." It did not leave room for such a construction as would permit of a change of circumstances to have a change in the opinions of the members of the Senate. In the amendment he proposed he wished to have

France understand that she was to make an allowance for such a change of circumstances from time to time as might exist. The word "time" in the resolution of the honorable chairman referred simply to the passing of a law. If there be difference betwixt the two, which made his (Mr. C's) more agreeable to him (Mr. C.) and to others, what was there to prevent gentlemen from assenting to this amendment? What objection can or ought there to be made to it? It would have the effect of uniting our old American feeling, that, where any foreigner is concerned, we cast aside all differences of opinion. That feeling comes in as a cure for every political cancer—a remedy for all party diseases, as it was after the commencement of the war with Great Britain. Mr. C. concluded by saying that he felt every desire, as no doubt it was that of others, to preserve our relations with France inviolable, but the honor and interests of our own country must be preserved.

Mr. CLAYTON, in a few words, expressed his preference of the language of the resolution as proposed to be amended by the Senator from Kentucky, to that of the resolution of the Senator from Georgia, who had lately resumed his seat. It might be the fact, that, at this very time, the French Chambers may have rejected the bill. He was not willing, then, to admit that it was proper to say that at this time, or under the existing state of circumstances, it was inexpedient to pass any law. He was in favor of the proposition as it was now modified by the Senator from Kentueky.

The question was then taken on the motion of Mr. CLAY to amend, and decided in the affirmative.

Mr. KING, of Georgia, then expressed a hope that there would be no objection to change the phraseology of the resolution, so as to read,

Resolved, That it is inexpedient, at present, to adopt any legislative measures in regard to the state of affairs between the United States and France.

Mr. CLAY said he had no sort of objection to that form.

Mr. MANGUM then asked for the yeas and nays on the adoption of the resolution, and they were ordered accordingly.

Mr. CLAY then rose and said that he had no desire to prolong the present discussion; but he desired to say to the Senator from Pennsylvania, that while he was thankful to him for the commendation which he had bestowed on the report, he begged leave to say that, if it were proper, on this or any other occasion, for him to compare notes with that gentleman, as to the facts and arguments contained in the report, he trusted it would not be out of his power to defend the reasonings and conclusions of the committee; and whenever that occasion should occur, he would feel great pleasure in meeting the Senator from Pennsylvania.

Mr. BUCHANAN said that, although—and he said it with the most entire respect—he could not pretend to compare strength with the veteran who had just taken his seat, yet so fully was he convinced of the truth and justice of the position which he had taken, that he should, whenever it was necessary, not shrink from entering the lists with that distinguished champion.

Mr. TALLMADGE said he rejoiced to see a unanimity which seemed to pervade the Senate on the subject of our relations with France, and he was unwilling to introduce any topics into the discussion at this time, which would tend to interrupt the harmony which seemed to prevail. At the time the report was made to the Senate, he took the opportunity to express his approbation of some portions of it, and his dissent from other portions. He was then of opinion that it were better that the committee should make no report, and that Congress should not act on the subject till further information was received from France, and that the whole matter be left where it was left by the President's message. He was still of opinion that that would have been the better course. But the majority of the committee thought otherwise. The report is before the Senate, and must receive that consideration which is due to its importance. He was rejoiced to see the manifestation of a general disposition to adopt such a course as shall tend to unite all parties on this question, as it was there presented. He rejoiced to see that, however much we might differ about our own local and internal affairs, there was but one feeling when the honor of the nation was concerned.

Mr. T. said he accorded with the views which had been taken by the committee, as a whole, and also gave his meed of praise to the honorable chairman who drew the report, for having displayed a true American feeling in it. It was a gratifying spectacle to witness the interest manifested by the citizens, who, on this occasion, crowd this chamber, and still more gratifying to believe and know that but one sentiment pervades the whole. It is an American feeling—a feeling which swallows up every other, when the question is one between our own and a foreign nation. No matter what may be our dissensions at home, the indications given here this day assure us that they cannot be extended abroad. Let our motto be, for our country always.

Mr. T. said, in dissenting from some portions of the report, it was his intention, when a proper occasion presented, to enter fully and at large upon the discussion of those portions of it. He had supposed that this might be deemed a proper occasion, and was prepared to enter upon it at this time. But he was reluctant to do any thing to interrupt the harmony of the Senate on the important leading matters of the report. He would, therefore, omit what he otherwise would have said, and reserve, for a more fitting occasion, if one should offer, what he intended to have submitted to the consideration of the Senate at this time, under a full persuasion that he should be able to assign satisfactory reasons for his dissent from the majority of the committee.

Mr. T. said he approved the resolution under consideration, as it had been amended, and should give it his support. He was desirous of leaving the whole matter open for the future action of Congress, when we should receive information from France to enable us to determine what that action should be. There might be a difference of opinion as to what measures ought to be adopted, if France should refuse to do us justice; but it was best that each individual Senator, and the Senate as a body, should be left free to act as should be deemed most expedient when the time should arrive, and we should be imperiously called upon to act. He would, therefore, detain the Senate no longer than briefly to remark upon the positions contained in the President's message and in the report of the committee. These documents agree entirely in the important points between the United States and France. They agree in the enormity of the aggressions upon the rights of our citizens, and of the outrages upon our commerce, for which indemnity has so long been sought. They agree in the fruitless efforts which have been made, for nearly a quarter of a century, to obtain redress of the grievances of which we have complained in vain. They agree as to the amount of our claims upon France—that our just claims far exceed the sum stipulated to be paid us by the treaty of 1831. They agree, also, that we will not look behind the treaty for any liquidation of the amount of our demands, other than that what is contained in the treaty itself; and, above all, they agree that the stipulations of the treaty must ultimately be performed; that the idea of non-performance, on the part of France, is utterly out of the question. These are the important points to this momentous affair, and it is a matter of congratulation that, on all these, there is no difference of

opinion, as he believed, among the representatives of the American people, and he trusted no difference amongst the people themselves.

The difference, then, said Mr. T., between the message and the report, is comparatively unimportant. This difference consists, first, as to the President's conclusion, from the correspondence, that the French Government had engaged to present to the new Chambers the bill making the appropriation to carry the treaty into effect in time to enable him to communicate the result to Congress at the commencement of the present session; second, as to the remedy to be pursued in case the Chambers should again refuse. As to the first, the chairman supposes that, if the French minister, when the Secretary of State expressed to him this expectation of the President, had expressed his assent to it, then the engagement would have been complete. With all due deference, said Mr. T., to the honorable chairman, he would take leave to say, that if, after the Secretary of State had thus communicated the President's expectation to the French minister, and he did not express his dissent, then the engagement became binding on the French Government, and should have been performed. But, he said, he would not pursue this subject, as it was not his intention, at this time, to discuss it.

How, then, does the matter stand? The President is required, by the constitution, to make such recommendations to Congress as he shall think the interests of the nation require. In the difficulties between the United States and France, he has, in a certain event, recommended reprisals on French property, to satisfy the demands which are acknowledged, by solemn treaty, to be due to our citizens.

In making this recommendation, he has discharged his duty. It remains for Congress to discharge theirs. The President leaves the whole matter, as it was his duty to leave it, to the consideration and action of Congress. Mr. T. said, if he were to express his individual opinion, as at present advised, and from the best light now before us, he would be for adopting the measure recommended by the President in his message. But, said he, this is not the time to consider that, or any other measure. When farther information should be received from France, and it shall be ascertained that the Chambers have deliberately determined that the stipulations of the treaty of 1831 shall not be carried into effect, he did not doubt that the American Congress would adopt such measures as the interests of our citizens and the honor of the country require.

In conclusion, Mr. T. said he felt it his duty to remark to the honorable chairman, that whenever the opportunity presented for acting upon the controverted points of the report, he would undertake to vindicate the conduct of Mr. Rives, the distinguished minister who negotiated this treaty. He had not been able to discover the propriety of introducing this gentleman's name into the report, in the manner in which it had been done; and he regretted, extremely, that the chairman should have felt himself under the necessity of doing it, when, to almost every unbiased mind, the propriety of the step would seem so very questionable.

The question was then taken on the resolution, modified to read as follows:

Resolved, That it is inexpedient, at present, to adopt any legislative measures in regard to the state of affairs between the United States and France;

And decided unanimously in the affirmative, by yeas and nays, as follows:

YEAS—Messrs. Bell, Benton, Bibb, Black, Buchanan, Brown, Calhoun, Clay, Clayton, Cuthbert, Ewing, Frelinghuysen, Grundy, Hendricks, Hill, Kane, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Mangum, Moore, Morris, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Robinson, Shepley, Silsbee, Smith, Swift, Tallmadge, Tipton, Tomlinson, Tyler, Waggaman, Webster, White, Wright—45.

The Senate then adjourned.

THURSDAY, JANUARY 15.

COMMISSIONER OF PENSIONS.

Mr. TOMLINSON, from the Committee on Pensions, reported a bill to continue the office of Commissioner of Pensions.

The bill having been read the first time,

Mr. TOMLINSON said that it would be recollected by the Senate, that the office of Commissioner of Pensions was created by the appropriation bill of 1832-'3. The office, he said, expired by its own limitation on the termination of the present Congress. It was necessary, therefore, in consequence of the great accumulation of business in that department, that it should be continued; and he was desirous that prompt action should be had on the bill, that it might go to the other House and become a law as soon as was practicable, so that the President might have time to nominate a suitable person to the Senate to fill the office. The bill prescribed the same duties, the same salary, and the same franking privilege, which the Commissioner of Pensions enjoyed under the former law. Mr. T. moved that the Senate take up the bill now; which was agreed to.

The bill was then considered as in Committee of the Whole, reported to the Senate, and ordered to be engrossed for a third reading.

AMENDMENT OF THE CONSTITUTION.

The joint resolution proposing an amendment to the constitution of the United States in relation to the election of President and Vice President of the United States was taken up as the order of the day.

Mr. BENTON said the amendment proposed to change the constitution of the United States, so as to make the election of President and Vice President directly by the people. The proposition which he had now offered was the same as that which he had had the honor to make at different times for ten years past. The different form which the amendment now wore had been given to it by the labors of two committees, which (leaving out of the question the member who now addressed the Chair) might be said to have greatly distinguished themselves by the judgment and labor which they had bestowed upon the subject. The amendment was drawn by a committee consisting of nine members of the Senate, four or five years ago. They were specially elected and appointed for the purpose, to consider the propriety of amending the constitution of the United States in that particular which was comprehended in the resolution. The gentlemen were selected from the great sections of the Union, and they comprised some of the oldest members of the Senate. He was of opinion, at the time, that any amendment which should be proposed to the constitution, and which is embraced in the amendment before the Senate, ought to be sanctioned unanimously by a committee of nine. Having thus come unanimously from such a committee, it certainly came well recommended to the consideration of this body, and in the most imposing manner. At the last session of Congress this amendment was referred to another committee, consisting of five members, and, not taking himself into the account, he would say the subject, as it came from them, commanded respect for themselves. They made no material alteration in the resolution, having merely altered the phraseology of the two points contained in it, and left untouched the principle which was embraced in it.

Mr. B. said he apprehended, then, that no amendment could be proposed to the constitution in a form better than that which was last reported. The language was as perfect as it could be, it having undergone the most careful revision of the committee. He held, also, that the principle which was contained in it came before the Senate in the most unexceptionable and unobjectionable manner.

The amendment contained two fundamental principles; the first of which was, that the two first officers of the Government, the President and Vice President, should be elected directly by the people. The next was, that districts should be established throughout the United States, and in every district the qualified voters should vote in their own person directly for the first or second Magistrate of this Republic; and that he who got a majority of the votes of the districts should be declared President, and he who obtained a minority only should be considered Vice President.

Now, these were the fundamental principles which it was desirable should be engrafted on the constitution. In the event of there being no choice by the people, the election was not to go to the House of Representatives. In case, however, there should be two or four candidates, the two highest number of votes should be given in, and then the election should go back to the people for a second choice to be made by themselves. If the election should result in both candidates for the same office receiving the same number of votes, of course there would be no choice. But that was a contingency which was not to be contemplated.

The effect of the amendment was,

1. That there should be a direct vote given for President and Vice President.

2. To abolish the general ticket system, and introduce the district system. And

3. To prevent the election from going to the House of Representatives.

These were the principles of the resolution. The amendment had now come up unexpectedly, and having said thus much, he left the subject to the consideration of the Senate. His wish was that a direct vote might be taken on the question; but he would wait with pleasure the disposition of the Senate.

Mr. POINDEXTER said the subject had been so long before the Senate, and had attracted such universal attention throughout the country, that he presumed it was now well understood. For himself, he should be gratified if a vote could be taken upon it now, though he had formerly made up his mind, for reasons which he should not now urge upon the attention of the Senate, that the amendment proposed should first be laid before the State Legislatures for their examination. He would repeat that he believed every member of the Senate and the whole country now understood the full effect of the amendment proposed to be made to the constitution.

Mr. BUCHANAN observed that he was perhaps differently situated from any other honorable Senator, he having been here but a few days. He did not feel the propriety of giving his vote on the question now, and he trusted that, according to the polite intimation of the Senator from Missouri, the subject would be laid upon the table for a few days. If that course were taken, he should be able to vote then one way or the other.

Mr. BENTON would have been pleased if a disposition of this matter could have been made at once, instead of postponing it, because it would come up again at so late a period of the session that it might not be acted upon. As soon, however, as gentlemen could make up their minds on the subject, he would ask a vote on it.

Mr. B. then moved that the resolution be laid upon the table. The motion was agreed to, and the resolution laid on the table accordingly.

PRESENTS FROM MOROCCO.

The joint resolution authorizing the sale of a lion and two horses, presented to the President of the United States by the Emperor of Morocco, was taken up and considered as in Committee of the Whole.

Mr. PORTER moved to amend the resolution by directing the sale to take place on the last Saturday of February, 1835.

Mr. FRELINGHUYSEN moved to amend the amendment, by inserting a proviso that the lion be presented to the proprietor of Peale's museum in the city of New York, and the horses to be presented to some agricultural society in that State.

Mr. PORTER objected to the amendment. He had no idea of making such valuable presents to the richest State in the Union. New York had the most riches, the most commerce, "her *safety* fund banks," and, in time, she might have some other things still more valuable. He would be perfectly willing to give the lion to the State of New Jersey, if the gentleman wished it; but as for the Arabian horses, he would rather they should be given to some society in the State of Louisiana. Louisiana had her agricultural societies, and so had all the States of the Union, who would be glad to possess such valuable animals.

Mr. MOORE opposed the amendment. He had no idea of giving a lion to New York, or accepting one from there.

Mr. POINDEXTER moved a further amendment to the amendment, providing that the lion be presented by the President to Louis Philippe of France.

Mr. BUCHANAN said he should be opposed to this amendment, because it would be a direct declaration of war against France.

The amendment was lost.

Mr. SHEPLEY said this was a small affair, but he should like to know from the gentleman from New Jersey, in what part of the constitution he found the authority to give away the property of the United States. If, said he, we make presents of small matters, on the same principle we may give away millions. What right, he asked, had we to give away the property of the United States? It ought to be sold and the proceeds placed in the treasury.

Mr. FRELINGHUYSEN replied that this question could be best settled on the principles of the common law. In order legally to dispose of property, we must first be able to hold it; and he did not see how we could hold the lion.

Mr. HENDRICKS observed that, as some remuneration would probably be expected by Captain Riley for bringing these animals to this country, he thought the most suitable disposition of them would be to present them to that gentleman.

Mr. POINDEXTER then moved to strike out the amendment of Mr. FRELINGHUYSEN, and to substitute one giving the animals to Captain James Riley.

This latter proposition having been lost, ayes 14, noes 19, the question was taken on the first clause of Mr. FRELINGHUYSEN'S amendment, (giving the horses to an agricultural society,) and it was decided in the negative.

Mr. CLAY offered, as a modification of the remaining part of Mr. FRELINGHUYSEN'S amendment, that the lion be presented to such suitable institution, person, or persons, as the President may designate; and this substitute having been accepted by Mr. FRELINGHUYSEN, it was adopted: Ayes 18, noes 15.

Mr. PORTER'S amendment, as thus amended, was then adopted, and the resolution was ordered to be engrossed for a third reading.

[As the resolution now reads, it provides that the two

Arabian horses, presented by the Emperor of Morocco to the President of the United States, shall be sold at public auction, at the City of Washington, on the last Saturday of February, 1885; and that the lion presented by the same potentate shall be presented to such suitable institution, person, or persons, as the President may designate.]

On motion of Mr. BENTON,

The Senate proceeded to the consideration of executive business; and, when the doors were opened,

Adjourned.

FRIDAY, JANUARY 16.

AMERICAN CONSUL AT LONDON.

Mr. SILSBEE, from the Committee on Commerce, reported favorably on the claims of the American consul at London to a settlement of his accounts. He was directed to say that, in the opinion of the committee, the whole allowance claimed should be allowed. The Secretary of State had objected that he had no right, by law, to allow them; but Mr. S. suggested, by authority from the committee, that, until the Legislature made some provision in these cases, the claims might be allowed, as they had been for thirty or forty years past. If not allowed, these expenses would swallow up the whole amount of emolument and fees received by consuls.

ROAD FROM LYME CREEK TO CHATTAHOOCHIE.

On motion of Mr. KING, of Alabama, the Senate took up the bill lying on the table, making an appropriation of 20,000 dollars for the repair and completion of the road from Lyme creek to Chattahoochie.

Mr. K. proposed to insert a clause providing that the amount to be appropriated should be taken out of the two per cent. fund accruing from the sale of lands in the State of Alabama. This fund was expressly reserved for the making of roads in and through the State; he hoped the bill would pass, and no constitutional objection be raised against it.

Mr. POINDEXTER objected. He doubted the right of Congress to dispose of that fund without the consent of the Legislature of Alabama. He founded this objection on the provisions of the ordinance by which Alabama was admitted into the Union. He therefore moved as an amendment, "provided the consent of the Legislature of Alabama be obtained to the same."

Mr. KING replied that this amendment would ruin the bill, for the road ought to be made during this present spring and summer, whereas the Legislature did not meet till next winter.

Mr. K. contended that those funds proposed in his amendment were placed by law at the disposition of Congress. The Legislature of Alabama was not, therefore, concerned in the matter.

This road, Mr. K. observed, leads into the State of Mississippi, and was calculated to promote the benefit of that State as well as of Alabama. First he proposed the appropriation to be made from the treasury, as it was for the object of facilitating the transportation of the mail. To this the Senator from Georgia [Mr. KING] objected, suggesting that the two per cent. fund was expressly set apart for that purpose, and subjected to the control and disposition of Congress; then he introduced, by amendment, that the money be taken from that fund; now, however, the gentleman from Mississippi objects even to our having our own money for this purpose. In this manner there will be no road at all; but it is of the utmost importance to Alabama, and all the Southern States, that there should be; it would promote the advantage and interests of Mississippi, the neighboring State; the road led into that State; he would therefore move, as an amendment, that the money be taken from the two per cent. fund of Mississippi; to this that gentleman certainly could not object, and perhaps it will be highly gratifying to him to let Mississippi supply the funds, since he has endeavored to prevent them from being supplied from any other source.

Mr. POINDEXTER spoke in support of his amendment, and read that part of the ordinance which referred to his argument.

Mr. MOORE said the same committee of both Houses had reported a bill making an appropriation to this road to the amount of 20,000 dollars; but it was within the State; beyond the State limits there was no right to touch the fund without the consent of Alabama. Mr. M. hoped his colleague would amend or withdraw his proposition.

Mr. KING, of Alabama, would amend, but not withdraw. To obviate the difficulty, he moved to strike out Alabama and insert Mississippi.

Mr. BLACK was opposed to this amendment.

Mr. PORTER said the idea of the gentleman seemed to be that all the roads leading to Mississippi must come from Washington. Mr. P. thought they might come in any direction; and this road he thought important, as connecting the Southern States. He trusted the Senator would permit the amendment to be made.

Mr. POINDEXTER thought that the money might be taken with as much propriety to construct a road from Black Rock to New York. He had never heard that the two per cent. fund of one State should be taken for the benefit of another, merely because the road led to the former State.

[Mr. P. read the portion of the law relating to this subject, to show that the two per cent. was designed for the benefit of the particular State, under the direction of Congress.] He said, on the broad principle assumed, the fund of Mississippi might be applied to any road pointing to the State. He deemed this principle dishonorable, and one to which Mississippi would not submit.

Mr. BLACK contended that, on this principle, the fund might be taken to improve Pennsylvania avenue; the road in question did not lead to the State, nor was it even connected with any main road leading there.

Mr. KING, of Alabama, was surprised that the Senators from Mississippi refused to have the money expended either in the State or out of the State. He said this was the direct road leading to the capital of Mississippi. [Mr. K. here described the course of the road.] If the Senators would not expend their money on a great mail route leading to the State, where would they expend it? If they deemed it an insuperable objection that the road was out of the State of Mississippi, Mr. K. was willing to resort to the fund of Alabama. Mr. K. thought the object of the fund was to construct roads for the benefit of the country generally. Three-fifths of the fund granted was expressly for the benefit of each particular State; the other two-fifths was for the benefit of the Union. If the Senators could point out any other road leading to the State that would be of more benefit to Mississippi, Mr. K. was ready to give it the preference.

Mr. HENDRICKS had no hostility to the bill, and he was willing to vote for this appropriation, on the principle on which such appropriations had heretofore been made. He was, however, unwilling in this case to tax either the two or three per cent. fund.

Mr. GRUNDY differed from gentlemen on both sides as to the construction of the ordinance. Mr. G. understood that the three per cent. was to be applied by the

State Legislature to local and internal objects. The two per cent., on the contrary, was designed for national objects, the effects of which should not be confined to the limits of the particular State. [Mr. G. read from the ordinance.] Mr. G. would therefore vote against the proposition to take the appropriation from the two per cent. fund of Mississippi, and in favor of taking it from that of Alabama.

Mr. BLACK said the Senator from Alabama [Mr. KING] had misunderstood him on one point. Mr. B. understood that roads leading to a State were not within the State; for that reason he would not consent that the funds of Mississippi should be applied to roads in Alabama. Mr. B. again insisted that the route of the road was circuitous.

Mr. PORTER trusted the amendment would be supported. When this road connected with the State of Mississippi, and benefited her considerably, it was not just to speak of it as if it bore analogy with any remote road in any part of the world, not connecting with that State. He hoped the Senator from Mississippi [Mr. POINDEXTER] would assent to the amendment.

Mr. POINDEXTER was sorry he could not take the gentleman's advice. The road in question runs to New Orleans, and has no connexion with his State, except by cross roads which meet it. He was willing to consent that the appropriation be taken from the funds of Alabama, but certainly he did not think she had any right to run into a neighboring State, and carry off funds from it to make roads running through her State. His only objection had been, that the consent of the Legislature of Alabama was necessary, and that the right of disposing of these funds rested in that body, and not in Congress.

Mr. BLACK moved to insert Louisiana, for the road would benefit that State as well as any other; and, therefore, let that State find the funds as well as any other.

Mr. GRUNDY was afraid this important and necessary measure would be defeated by such contrariety and differences among Senators. Many complaints are made about the failure of the mails; and here it is evident that the Senate itself contributed to produce such a failure. As to taking the funds from Mississippi, Mr. G. observed that Tennessee might just as well be called upon to make an appropriation for the improvement of Pennsylvania avenue; for if this road led to Mississippi, so did Pennsylvania avenue also lead to Tennessee.

Mr. TIPTON confessed the subject was so embarrassed, from all that had been said upon it, that unless its real title and character were given, he should vote against the amendment.

Mr. KING, of Alabama, explained.

Mr. TIPTON said that if the funds of one State were to be applied to make roads through another State, he should vote against it.

The question on the amendment of taking the money from the two per cent. land fund of the State of Mississippi was then put, and lost.

The VICE PRESIDENT then observed that the bill was now before the Senate, open to amendment.

Mr. KING, of Alabama, then moved to insert Alabama instead of Mississippi.

Mr. POINDEXTER would not object to the money being taken from the Alabama fund, but the consent of the Legislature of Alabama, he thought, ought to be obtained; it would be more respectful to that State.

Mr. GRUNDY observed that the Legislature of Alabama had nothing to do with it; the ordinance places one portion of this fund at the disposition of Alabama for specific objects, and the other portion at the disposition of Congress for making public roads. Out of this latter portion the bill authorized the appropriation to be made; but the gentleman from Mississippi [Mr. POINDEXTER] is not willing to permit that the law should take its course as to the disposition of this fund, without first getting the consent of the Legislature of Alabama. Now, as to courtesy and respect, on that ground he could have no objection to the reference to the Legislature, but he must distinctly put in his protest against the principle which that Senator would establish, the precedent which he aimed to lay down—namely, that Congress was to be tied down in such a manner as not to be able to act in the simplest case, where its authority was clearly defined, without first consulting and obtaining the consent of State Legislatures.

Mr. MOORE supported the view of the Senator from Mississippi, though at the same time he was sorry to differ from his honorable colleague on this subject. Mr. M. then spoke at some length in support of Mr. POINDEXTER's amendment.

Mr. GRUNDY said this two per cent. was to be applied to the construction of roads not limited to the State, but which had their origin without the State, and leading to it.

Mr. MOORE differed from the honorable Senator; he presumed the plain words of the compact confined the appropriation to roads leading to the State, and not to roads within the State. Mr. M. would have been glad if his colleague had withdrawn his amendment, and the appropriation had been made as heretofore; he felt compelled to vote against it.

Mr. KING, of Alabama, thanked the Senator from Mississippi for his respect to the legislation of Alabama.

Mr. POINDEXTER explained he meant nothing disrespectful.

Mr. KING, of Alabama, further urged the smallness of the appropriation and the importance of the road. He had no doubt at the time the compact was accepted, that the money was to be appropriated to roads leading to the State, but within the limits of the State. He insisted that the grant made by Government was not equal to the benefit to the Government for not having the public lands.

Mr. PORTER would vote for the original bill. If there should be delay in passing it, the road would become impassable, and the course of the mail would be interrupted. In his opinion, the benefit of all the neighboring States should as much be taken into the account as that of Mississippi and Alabama. He would vote against the amendment, and he thought the whole discussion useless, showing no other purpose than to satisfy nice constitutional scruples, with which, in this case, he was not troubled.

The call of Mr. POINDEXTER for the yeas and nays, on the amendment, was sustained.

Mr. HENDRICKS was wholly opposed to taxing any other fund with the appropriation in this bill. The compact declared that the two per centum fund should be appropriated to making roads to the States. On this point the decisions heretofore had been uniform. A part of this two per centum fund had been disbursed east of the Ohio river for a road leading to the new States. With the three per centum Congress had nothing to do; and, on the other hand, over the two per centum the States had no control. Mr. H. would vote against all amendments, and would then vote for the original bill. He thought Messrs. GRUNDY and KING could not have constitutional scruples as to the original bill, for the latter gentleman introduced it, and the former, as chairman of the Post Office Committee, adopted and reported it without amendment.

Mr. POINDEXTER said he had proposed his amendment merely to make the preceding amendment better; he, however, preferred the original bill to either.

The vote was now taken on the amendment to the amendment; and it was lost: Yeas 4, nays 27.

Mr. KING's amendment was then adopted: Yeas 19, nays 17; and the bill, as amended, was reported to the Senate.

Mr. WEBSTER suggested that there might be objections to the bill in its present form.

Mr. EWING said he should have voted for the bill if the amendment had not prevailed; as it was, he should vote against it.

Mr. MOORE moved to lay the bill on the table till Monday; which motion prevailed, by a vote of 20 to 18.

BRIDGE OVER THE WABASH.

The following resolution, yesterday offered by Mr. TIPTON, was taken up for consideration:

Resolved, That the Secretary of War be requested to transmit to the Senate an estimate of the cost of constructing a bridge over the river Wabash, at the crossing of the Cumberland road; and also a report as to the practicability of constructing said bridge on such a plan as not to obstruct the navigation of the river at any stage of water; and should the files of the Department not now furnish the information sought for by this resolution, that the Secretary will cause it to be procured and reported to the Senate at an early day in the next session of Congress.

Mr. TIPTON said that this was a mere resolution of inquiry, to ascertain the probable cost and practicability of erecting a bridge across the Wabash. If it could be done without interrupting the navigation of the river, it would be very desirable. Several States were interested in the bridge more than the State from which he came. It would be admitted by every one, that the mail, in travelling farther west, and having to cross this river to the Cumberland road, would be greatly accommodated by the erection of a bridge. Much difficulty was at present experienced in passing the river, owing to the sudden rise and fall of it by freshets. And in winter, particularly, the inconvenience was felt. There is a portion of the winter, when the ice floats, that the river cannot be passed at all, and then all travelling must be suspended. It was vastly important that, if the bridge was built, it should be on such a plan as that it would not obstruct the navigation of the Wabash. He should be guided in his vote as to the appropriation for this bridge, by the information he should obtain, whether it could be built without causing any obstruction to the navigation of the river; and the inquiry could, at least, do no harm, and would be satisfactory to those most interested.

The resolution was then agreed to.

PRESENTS FROM MOROCCO.

The joint resolution authorizing the disposal of a lion and two horses was taken up on the question of its passage; when

Mr. POINDEXTER said that, as there were many Senators absent, and some gentlemen had expressed an objection to the mode in which the lion was to be disposed of by this resolution, he moved that, for the present, the resolution be laid on the table.

The motion was agreed to.

After taking up and acting upon several bills,

The Senate adjourned to Monday.

MONDAY, JANUARY 19.

EXEMPTION OF MERCHANDISE FROM DUTY.

Mr. WEBSTER, from the Committee on the Judiciary, to which had been referred the bill to exempt merchandise, imported under certain circumstances, from the operation of the tariff laws of 1832, reported the same, with an amendment, which was read.

Mr. W. said that the committee had made two amendments to the bill, or, rather, one amendment; for, although the words came in in two parts of the bill, they looked to the accomplishment of only one object. The act was now so modified as to extend the exemption from duties only to goods imported before the 30th of September, and there it stopped. He suggested that this seemed to be a very short period for goods which were imported from beyond the Cape of Good Hope. Yet, as there was much unanimity on the subject of adopting the amendment as it stood, it was thought better to put all merchandise on the same footing. And if there were cases of merit and equity arising out of long voyages, which this bill would not provide for, it seemed to the committee that they should be made the subject of particular legislation.

The amendment was then adopted, and the bill was ordered to be engrossed for a third reading.

MOSES SHEPHERD.

On motion of Mr. CLAY, the bill for the relief of the legal representatives of Moses Shepherd, deceased, was taken up for consideration, and, after a debate, in which Messrs. BLACK, SMITH, LEIGH, TYLER, HILL, and HENDRICKS, participated,

The bill was ordered to be engrossed for a third reading: Yeas 22, nays 21, as follows:

YEAS--Messrs. Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kent, Knight, Leigh, Linn, McKean, Moore, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Southard, Tomlinson, Tyler, Webster --22.

NAYS--Messrs. Benton, Bibb, Black, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Mangum, Morris, Preston, Robinson, Shepley, Swift, Tipton, Waggaman, White, Wright--21.

ALABAMA TWO PER CENT. FUND.

The bill introduced, on leave, by Mr. MOORE, of Alabama, authorizing the State of Alabama to apply the two per cent. fund arising from the nett proceeds of the public lands in said State, reserved for the making of roads to the same, to the purposes of education, was taken up as the order of the day. The question being on the amendment reported by the Committee on Public Lands. [The substance of the amendment is, that the fund shall be vested in some safe stocks, to remain as a perpetual fund for the support of schools in Alabama; that the interests from such stocks only, shall be applied; and provides that, before the act takes effect, the assent of the Legislature of Alabama must be given to such application of this fund.]

Mr. MOORE, of Alabama, said, agreeably to the compact entered into between the General Government and the State of Alabama, and the other new States, as contained in the act admitting these into the Union upon an equal footing with the original States, the three per cent. of the nett proceeds of the sales of public lands lying within each State, respectively, had been reserved for purposes of internal improvement within the State, under the direction of the General Assembly; the two per cent. of the nett proceeds of the sales had been, in like manner, reserved for the purpose of making a road or roads leading to the State, under the direction of Congress.

This two per cent. fund, as regards the State of Alabama, he said, had been permitted to remain inactive: there having been no great road leading to the State in which the General Government, or the citizens of the State, had felt an interest, it had not been appropriated. The object of this bill was to change the destination of this fund, and to place it under the control of the Gen-

eral Assembly of the State, for the purpose of establishing common schools, mainly for the education of those who are destitute of the means of procuring it in any other way. With this view, the bill provides that this money shall be laid out in stock or stocks, the principal constituting a permanent fund, and the interest arising therefrom only to be appropriated, from time to time, to the objects of this bill.

Mr. M. said it was not for him, at this time, to detain the Senate by enlarging upon the importance and inestimable advantages of education. This Government had given ample proof of its commendable solicitude to promote education, by the liberal and beneficent grants made for its encouragement; and yet it is a fact much to be deplored that, notwithstanding this liberality, there were many thousands of the youth of our country utterly without the means of procuring an education.

As to the sixteenth sections granted to each township, and designed by the Government for this purpose, experience had proven that this was altogether insufficient, and nine times out of ten would furnish no aid whatever to this object.

It is true that the grant made the State for the university had been liberal on the part of the Government, and satisfactory to the citizens of the State; and he said he was gratified in being able to state that its management had been marked with great sagacity and prudence; and this institution, justly the pride of the State, had been put in operation under the most favorable auspices, and promised all the advantages its most sanguine friends anticipated. Yet, he said, he need not say the number who were capable of enjoying the advantages to be dispensed by it is comparatively small, indeed, and that none except the sons of the wealthy could share its blessings. How, said Mr. M,. can it be expected that the son of a poor man can ever become a graduate of this institution, at the enormous expense required for that purpose? No, sir, he said, this class of his fellow-citizens could not indulge the hope of deriving any greater benefit from this university than if its location had taken place in Europe or Africa. Its blessings had heretofore been, and must continue to be, confined to the wealthy, and to these only.

The funds now proposed to be applied to the object contemplated by the bill, Mr. M. said, amounted to about $115,000, and must be greatly increased by the sales of public lands now going on, and which must continue for some time to come. We may confidently look to this as the means of erecting a system of primary schools which will carry education to the door of every man in the State, by which the sons of the farmer, the mechanic, and those who get their living by the sweat of their brow, will be better qualified for all the various occupations of life, by which the youth of our community will be placed more upon an equality, by giving to the sprightly intellect and individual superiority of mind of the son the humblest individual among us (for in this class extraordinary genius is as often found as elsewhere) the power of expansion, and the power, too, of competing with those upon whom fortune has been more bountiful in her gifts of worldly blessings, for any public station of honor or profit known to the constitution and laws of a free people. This measure proposes to put the means in the power of the General Assembly to improve the moral condition of the entire population of the State.

Mr. M. said he was glad to see that an individual, claiming to stand high in favor with the dominant party, in a different part of this building, had, since this measure was introduced in the Senate, followed the lead on this subject. This, he hoped, augured well for the success of the measure; one thing, however, he hoped would not follow the consummation of this as did another important measure intimately connected with the interest of those whom he had the honor in part to represent: he meant the law authorizing the entry of public lands in forty acre lots. He trusted that if this measure shall become a law, we shall not, at a convenient time hereafter, read a long article in any newspaper, written either by the editor or the individual, claiming for that individual the entire credit of this measure as his own work. Yet the claim to this would be as genuine as was the claim preferred to the measure to which he had made allusion.

Mr. M. was not disposed to occupy the time of the Senate unnecessarily (which had now become precious) on this subject. It would be seen, he said, by the proviso, that the law was not to take effect until its provisions shall be approved and accepted by the General Assembly of the State. He therefore hoped the bill would receive the sanction of the Senate, as it had received the unanimous favor of the committee.

Mr. KING, of Georgia, said that this was a most extraordinary bill. Its object was virtually to make the very wealthy and respectable State of Alabama a mendicant to the General Government. The two per cent. fund, amounting to $115,000, was, in his opinion, just as much under the control of Congress, for the purposes for which it was set apart, as any money in the national treasury. The principle on which this two per cent. fund was founded was originally wrong, and, of course, it became more and more so, as the State progressed in population. He was much disposed to think that these nurslings of ours—these minors in the confederacy—had been in the nursery long enough, and he was inclined to wean them as rapidly as possible. Under the bill granting every 16th section of the public lands for the establishment of schools in the new States, tens of millions had been appropriated, and he was disposed to put an end to this sort of legislation. He would say again, that he was desirous to wean them; at least, he was disposed to consider their education as completed—as perfect in some branches of it, and particularly in that excellent science, "political economy," which taught the securing the greatest possible amount of comfort from the smallest possible share of labor. He presumed it would be admitted, on all hands, that Alabama had had an abundance of legislation by the General Government. He was astonished that the honorable Senator should get up and ask charity of the General Government, when his State was so rich and powerful, and did not need it. His (Mr. K's) honorable friend on his left [Mr. KING] had risen during the last session, in open session and open day, to give notice that he would introduce a bill for the purpose of appropriating—he (Mr. K.) did not know how many hundreds of thousands of acres of the rich lands in Alabama, Mississippi, and Louisiana—for what purpose? Why, for the purpose of educating the young ladies of those rich States.

Now his honorable friend [Mr. MOORE] supposed there were poor children there. Why, there were none. And, yet Alabama came here to ask the bounty of the General Government. Why, it was literally populated with nabobs and slaves; and as to the latter, he (Mr. K.) believed the former were quite competent to take care of them.

If an application were to be made to appropriate the money derived from the two per cent. fund, for the purpose of educating the really poor children of the States generally, he might feel disposed to support such a proposition. Why these repeated applications to Congress on the part of Alabama, reminded him of a cormorant picking up crumbs from a rock. It had become an inveterate habit with her, and it was necessary that her friends should interfere and cure her of it. He had thus expressed his opposition to the bill, and he should

be glad to hear his honorable friend [Mr. MOORE] make a decent apology for this application to Congress; after which, he would move to lay the bill on the table.

Mr. MOORE said he would endeavor to make an apology, though it might not be what the honorable gentleman would call a decent one. The Senator was entirely mistaken in regard to the terms upon which this application was made. His (Mr. M's) constituents were not mendicants—did not come here to beg—nor had he the honor to represent a nobility or a set of lords. The honorable Senator was entirely mistaken in what he had said. He (Mr. M.) claimed the honor of representing the honest farmer, the wealthy of the State, and the supporters of this Government. These were what he had the honor to represent. He asked for no such thing as the gentleman seemed to imagine. The State of Alabama merely requested the fulfilment of the compact which was originally entered into between her and the General Government, the disposal of the two per cent. fund, which had not yet taken place. Was Alabama to blame for not making roads according to the terms of the compact? He trusted the honorable Senator would not make such a charge against her. She could not touch the fund. The General Government was to perform the agreement under her own direction.

What Alabama asked was, that if there was no great road to be made, and to which this fund could be properly appropriated, according to the compact, she might be allowed to apply it for the purpose of education. Now, could a more laudable object be presented to the consideration of the Senate?

He did not represent rich lords and nabobs, which the gentleman from Georgia insinuated, but highly honest men—most worthy citizens. This was the only apology he had to make, and he hoped it would be satisfactory to the honorable gentleman.

Mr. WEBSTER said that this was a local measure. It had attracted his attention principally because it was an appropriation of a reserved fund to a new object, and one which was highly interesting in its character, and which ought to be kept in view, wheresoever it came within the admitted powers of the legislative authority. He understood that the two per cent. on the sales of public lands was reserved for the purpose of making roads. It was proposed to apply this fund, with the consent of Alabama, to another equally important object—common education. If it was the pleasure of the State to apply it to the latter purpose, in preference to the former, he knew of no interest which the United States could have in objecting to the change. He thought this new object was one which merited especial regard. He should venture to submit to the gentlemen who were more interested in the matter, an amendment to the amendment reported by the committee. He did this for the purpose of establishing the character of the schools; a character which ought not to be departed from when grants were asked of a public character, whether in the form of land, or money, or any other form. The amendment reported by the committee provided that this fund should be appropriated to schools for the education of the children of the indigent. There were two principles connected with general public education, which he desired to be kept in view, and they were both consistent, elementary, and important. One of these principles was that the schools should be free, and the other that they should be common. They should be free, that is, without charge; they should be common, that is, they should know nothing of classes of society. They should be open to all. No question should be asked, whether he who comes for admission belongs to wealthy or indigent parents; and it was this disregard of property and birth which conferred value on these schools. Where all were on an equality, without reference to property, or birth, or any other distinction, they were common schools, and no consideration of wealth was necessary to entitle to admission. This principle should be kept in view whenever the Government makes grants of money or lands for schools. Common schools ought to be for elementary, primary knowledge. He wished, with the consent of gentlemen, to change the phraseology of the bill, so as to appropriate the fund to the establishment of three common schools, and to leave out all which referred to indigent; because he thought the amendment should not recognise any qualification, or the want of it.

Mr. POINDEXTER suggested the adoption of a system which he had introduced into Mississippi some years ago, viz: that those who could pay should do so, and the rest be free. In this manner, he observed, the funds are increased, and still it remains a free school to all who wish it. He considered the system a good one. He wished that the Legislature should be restricted to operate on the interest of the principal fund, and not on the principal fund itself.

Mr. WEBSTER said that his impressions on the subject were perhaps the impressions of one who lived in a part of the country where common education was more an act of the Government than in any other State. It was true that, where the fund for common education was a public grant, it would seem as if those who were able to educate their children should not participate in its benefits. But, on the other hand, where the fund arose from public taxation, the affluent are taxed, and ought to participate in the advantages; so that, taking the two sources of the fund, public taxation or a grant from the Government for public purposes, the matter equalized itself. It was no extraordinary favor which was conferred on the affluent, and no extraordinary hardship that was thrown on the poor. All schools were free in his part of the country, and they would be very odious if any distinctions were made.

Mr. EWING remarked that the gentleman from Georgia was under a mistake in reference to the application of the two per cent. fund. That fund was supposed to be diverted to different purposes from those granted by the compact; that it was, in fact, granted to the State of Alabama. Whether it was or not, was a matter of no importance at the present time. The fund in question was the property of Alabama, to be applied for her use, and for a particular purpose; and the question was, "should this law, which provided for a different application of that fund, be adopted by the Senate?" If he understood the gentleman from Georgia correctly, he seemed to take a very different view of the way in which this fund might be used, from that set forth in the first provision of the bill. If the purpose to which it was to be diverted was contrary to the wish of Alabama, she would not assent to it. On the contrary, if she wished it she would assent to it, and the provision would be effective if the law passed. He (Mr. E.) would not consent to break the compact, or to vary it in any way whatever. The second section of the bill, however, he thought, ought to have been stricken out. He should vote to have that done, and also in favor of the amendment of the honorable Senator from Massachusetts, because he believed it to be a valuable addition to the bill. It would not do to make any discrimination between schools that were free and those not so. There was generally more aristocracy among children than their elders. The name of a "charity school" was calculated to humble those who attended it, and created a distinction which was not palatable between children in the habit of going to it and those who went to schools not having that name. The gentleman from Alabama would find that there was as much independent feeling existing among those of his constituents, however poor

they might be, as there was among the wealthy and opulent. He (Mr. E.) would strike out the distinction; and he would not, for the same reason, incorporate the provision contemplated by the honorable Senator from Mississippi; because, if a discrimination were made between charity scholars and others, the tendency of it would be to humble and draw a line between them, which would create a bad feeling among the children, and it would likewise destroy the benevolent intentions of the law. He would make it a free school, to which the rich might contribute if they chose, and as they ought to do. Let their property be taxed, and the rich and the poor educated together. For the reasons which he had already given, he should vote for the bill if the amendment of the gentleman from Massachusetts was inserted.

Mr. MOORE, in reply, again addressed the Senate, and said he had no material objection to the amendments proposed by the honorable Senator from Massachusetts, [Mr. WEBSTER:] he would accede to them. But he would beg leave to say to the Senator from Georgia, [Mr. KING,] that he did not claim to represent "the nobility and lords" that Senator had spoken of; he represented the honest yeomanry of the country, high-minded, honorable, and independent men; and as their representative he asked nothing as mendicants, but preferred their application for justice at the hands of the Senate. They had paid a high price for this two per cent. and had the right to demand its application for their benefit. It was true, he said, in the first instance he had wished to confine the means which this fund would afford to the education of those in more humble life; but, on more mature reflection, in order to make it acceptable to others, he had cheerfully acceded to the proposition for amendment, and was willing to extend the means even to "the lords and nobility" spoken of by the gentleman from Georgia. Yes, sir, said he, and, to make it more palatable, to the children of *Kings* too.

Mr. M. said he had presumed there could be no danger in trusting the General Assembly of Alabama to deliberate upon this matter, and to determine whether they would approve of the provisions of the law: if they did not, no harm was done, and there was no ground of complaint.

But his colleague had said, "he asked no favors of either the rich or poor." This, he said, might do very well at this particular moment, as the Senator had in his pocket a new lease for six years; but, query, whether the gentleman would have been quite so careless and independent about six weeks ago.

Mr. M. said, upon this occasion he asked nothing but justice for his constituents; and he, too, would claim to be independent, although he might not be quite so indifferent to the rich or the poor as others, yet he thought he might appeal to them for justice, not because he had ever made any sacrifice in his feelings or his principles, but because he had faithfully and conscientiously discharged his duty as an honest man, taking their interest alone for his guide.

The amendment was agreed to.

Mr. POINDEXTER moved to amend the amendment by striking out the second section; which was agreed to.

[The second section repeals any thing in the act to enable the people of Alabama to form a constitution and State Government, and for its admission into the Union on an equal footing with the original States, or any thing not coming within the purview and meaning of this act.]

Mr. KANE was very willing to see this money disposed of in any way that would be beneficial to the State of Alabama; but a difficulty had occurred to him, and he did not see how it could be got over. This compact between Congress and the State of Alabama was accepted by the latter in a manner which made it a part of her constitution. Was there any thing, then, he asked, in the constitution of the State of Alabama which authorized her Legislature, by a new contract with Congress, to change that constitution? This was one serious difficulty, which Mr. K. thought could not be obviated.

Mr. FRELINGHUYSEN was of opinion that Congress had no right to divert this fund from public purposes—from the construction of roads and canals—to merely domestic matters, appertaining alone to Alabama. Congress cannot legalize any such diversion of the fund. The reasons for such a diversion might be strong ones; but, if so, he (Mr. F.) had not heard them.

Mr. POINDEXTER said the honorable gentleman from New Jersey was perfectly correct in one particular. By the compact between the United States and Alabama, admitting that State into the Union, the three per cent. fund referred to was reserved for the purpose of making roads in the State, and the two per cent. fund was reserved for the purpose of making roads leading to the State, the latter to be applied under the direction of Congress. The whole was a grant to the State for its benefit; and, in consideration of this grant, the State stipulated on her part not to tax the lands of the United States, nor lands sold by the United States, until five years after the sale. But it must be recollected that this was a grant made for the sole benefit of Alabama, and one for which she gave a most extraordinary consideration. It therefore was clear to him that it was perfectly competent to Congress, with the assent of the Legislature of Alabama, to change the terms of the grant in a manner beneficial to the State of Alabama. He could not, for his part, see the force of the objections raised by the Senators from New Jersey and Illinois. The proposition was simply to submit the question of the diversion of this fund to the State of Alabama, and if she thinks it will be for her advantage, no solid objections could be raised to it.

Mr. PORTER, of Louisiana, said he had taken the same view of the subject, or nearly so, with that expressed by the Senator from New Jersey, but finding so general an expression of opinion at variance with his own, he had refrained from troubling the Senate. It appeared to him difficult for any one who would take up the compact between the United States and the State of Alabama, and, after an attentive consideration of it, be able to give his assent to the bill now under discussion. By the terms of that compact, three-fifths of the five per cent. reserved from the proceeds of the public lands are reserved for making roads and canals within the State, and two-fifths for making a road or roads leading to the State. The first to be applied at the discretion of the State Government, and the last at that of the Government of the United States. The bill in question proposes to take that portion of the fund which is destined to make roads leading to the State: in other words, to roads in the adjacent States, and apply it to purposes of education in Alabama. This, in my opinion, said Mr. P., cannot be done. The States adjoining Alabama have as direct an interest in that portion of the fund set apart for making roads in them, leading to Alabama, as she has to the three-fifths appropriated for internal improvements within her limits. And if Congress cannot take that portion set apart for her use without her consent, neither can they take that which is given for the use of the States adjoining, without their consent.

The contract between the United States and the State of Alabama was similar to that between individuals, in which a stipulation is made for the benefit of a third party, and which, when made, was no longer within the control of the parties contracting.

Individually, he said, he had no objection that Alabama should have the benefit of this fund, but the objection appeared to him insurmountable. So far as Louisiana was concerned, he had no doubt her Legislature, if properly applied to, would give her consent. Munificent in every thing connected with the disposition of money, she would not be found closing her hand when her sisters, who had even an equitable claim on a fund, asked that it might be applied to their benefit. But there were other States adjoining to Alabama which had an interest in the matter, and how they might feel and act he could not say.

With these remarks he might close, but the honorable Senator from Georgia had made it a subject of complaint that the new States, and among them Louisiana, were continually asking for gifts from the General Government. He (Mr. P.) was not aware that the State he had in part the honor to represent was obnoxious to this reproach. She was frequently, it was however true, compelled to come here and ask for justice, and he was sorry to say she did not always obtain it. But this was not the time to discuss these matters. The Senator from Georgia had declared that he had made these remarks in relation to the new States in good feeling. So Mr. P. understood him; they were merely intended as a good humored hit at our frequent wants, and he hoped the Senator from Georgia would take what he was now about to say in the same temper, and it was this: that he should remember that people, and States too, must either beg, borrow, or steal; and as we had no Indians among us, we were compelled to beg.

Mr. EWING observed that the objection of the gentleman from Illinois certainly possessed some force; but the ordinance barely released the lands of the United States from taxation, in consideration of the grant of these two and three per cent. funds.

Mr. KING, of Alabama, explained the nature of the ordinance, and observed that although this two per cent. fund, reserved for making roads leading to the State of Alabama, was to be applied under the direction of Congress, the convention of which he was a member, and which accepted the compact, believed that the State was as much interested in the two per cent. fund as in the three per cent. fund, which was to be expended within the State.

Mr. EWING said the question now was, not as to the convention, but as to the compact under which Alabama was admitted into the Union, and which cannot be changed. There was no power in Congress to give away any portion of this two per cent. fund, or for the Legislature to receive it, without calling a convention to sanction it, if the doctrine of the gentleman held good. But his opinion was, there was no difficulty in the case. The grant of these funds was an absolute one, and intended for the benefit of Alabama. Congress, therefore, and the Legislature, could modify the gift in such a manner as to be most advantageous to the State. The objections of the Senators from New Jersey and Louisiana did not apply to this compact, which was entered into by the United States and Alabama for the benefit of both parties, and could by them be modified and changed at pleasure. This was not a compact for the benefit of third parties, for it was made for the benefit of the two contracting parties; and the third party, receiving merely an incidental benefit, could have nothing to do with the changing it. These were his sentiments, and he should therefore vote for the bill.

The bill was then reported to the Senate, the question being on the amendment as amended.

Mr. KING, of Alabama, called for the yeas and nays on the question of the amendment, which were ordered.

Mr. BUCHANAN suggested to the gentleman from Alabama, whether it would not be better to defer taking the yeas and nays until on the question of ordering the bill to be engrossed for a third reading. The amendment, he thought, was better than the original bill. He would therefore vote for the amendment, though he should vote against the bill.

Mr. KING, of Alabama, said he would explain to the Senator from Pennsylvania, that if he voted against the amendment and defeated it, he left a bill that nobody seemed disposed to support.

Mr. BUCHANAN said he was satisfied with the explanation of the gentleman.

Mr. POINDEXTER remarked that here was a fund lying idle, which it was proposed to appropriate to the benefit of the State of Alabama. Now, if the Legislature of that State did not see that it would be of any benefit to them, they would not pass a law to receive it. The honorable Senator from Alabama could certainly trust the Legislature of his own State, who ought to know what was for their own benefit. The fund, as it stood, did nobody any good, but if applied as proposed in the bill, might prove highly beneficial to the State for which it was originally set apart.

Mr. FRELINGHUYSEN observed that, if he thought this fund was intended for the sole benefit of the State of Alabama, he might be brought to vote for the contemplated application of it. But now, when there seemed to be a general opposition to works of internal improvement, it was, in his opinion, an unseasonable time to divert this fund from the objects to which it was originally destined.

Mr. PRENTISS said he doubted whether one of the objections which had been urged to the bill, if it was intended as a constitutional objection, was well founded.

In the compact with Alabama, five per cent. of the proceeds of the sales of the public lands in the State was granted or set apart for making roads, three-fifths of which were to be laid out by the Legislature of Alabama in making roads within the State, and the remaining two-fifths by Congress in making roads leading to the State. The parties to the compact, by which the fund was created, were the United States on the one part, and Alabama on the other; and either or both portions of the fund might be applied to the purpose of education, or any other purpose, with the consent and concurrence of the parties interested under the compact.

It appeared to Mr. P. that the whole amount of the five per cent. was intended for the benefit of Alabama, and that the real beneficial interest was in that State. At any rate, no other State had any certain or definite interest in either portion of the fund; certainly no interest which could be recognised as forming any valid objection to the appropriation of the money to the use contemplated by the bill.

It was true that the two-fifths, if applied to the object originally intended, would be expended out of the State of Alabama, and within the limits of some other State or States. Some other State, of course, would derive a benefit from the expenditure; but this was a mere incidental benefit, not proceeding from any absolute right, or showing any vested interest in the fund. Nothing was given or granted to any State, in particular, other than Alabama. No other State was named in the compact as having any special interest in its conditions or provisions, or any concern in the consideration upon which the fund was created. Congress was at liberty to lay out the money in making a road leading through two or more States to Alabama, or expend it all in one State. In this respect, its discretion was large and unrestricted.

With such a power over the fund, and no other State in particular having any certain or fixed interest in it, the fund was subjected to the direction and disposal of Congress, and, with the assent of Alabama, might be di-

verted to a new and different use. The question, therefore, in the opinion of Mr. P., was one of policy or expediency, and not of power or right.

Mr. FRELINGHUYSEN said that the honorable Senator [Mr. PRENTISS] had misapprehended his meaning. He did not mean to say that the original parties to the compact might not alter it; but his difficulty was as to the policy of the alteration. He thought it was important that the fund should be preserved for internal improvements; though he did not question the right or the power of Alabama in this matter.

Mr. KING, of Georgia, said that he had now given, by withdrawing his motion to lay the bill on the table, an opportunity to the honorable Senator on his right, [Mr. MOORE,] to make an apology for this application to Congress; and he had also afforded his namesake from Alabama [Mr. KING] an opportunity of excusing himself for the gallant move which he had last year made in behalf of the ladies of the West.

He (Mr. K.) should, because he felt convinced the bill would not pass, allow a direct vote to be taken on it as amended. He was at issue with the Senators from Mississippi and New Jersey as to this being a fund for the particular benefit of Alabama. It was no such thing. The three per cent. fund was, or might be, considered at the disposition of the executive of Alabama; but the two per cent., now the subject of legislation, was intended as a common fund for the benefit of the Union, and therefore ought to be appropriated for common purposes. If it was not considered as a general fund, why, he would ask, was it left to Congress? Why make this distinction between the three and the two per cent. fund? The truth of the matter was, it was a common fund for the benefit of all. He would not go into the constitutional question now; for he believed the merits of the bill were such that it was only necessary to take a vote to put the subject to rest.

Mr. POINDEXTER observed that, as there was a bill in the other House relative to this fund, it might be as well to wait until some action had been taken on it, which would give an opportunity of further considering this bill. He was sure that the gentleman from New Jersey would find his opinion somewhat incorrect in respect to this fund being intended for the whole Union. Whoever paid a consideration for any property or privilege was entitled to it. Alabama had done so; she not having interfered with the sales of the public lands, or taxed them. The subject was new to many gentlemen. He should therefore move, in order that it might be well reconsidered, to lay the bill on the table for the present.

The bill was accordingly laid on the table.

Mr. CLAY then gave notice that, to-morrow, he would move the Senate to go into the consideration of executive business; and, on his motion,

The Senate adjourned.

TUESDAY, JANUARY 20.

MOSES SHEPHERD.

The bill for the relief of the heirs of Moses Shepherd, deceased, came up for a third reading.

Mr. HILL renewed his opposition to the bill, and submitted a motion, "That the bill be recommited, with instructions to specify the several items on which allowances shall be made, the amount allowed on each item, and the aggregate amount on all the items; which amount shall be in full of all claims pertaining to the several contracts made by Moses Shepherd for constructing any part of the Cumberland road?"

Upon which Mr. H. asked the yeas and nays, and they were ordered.

After some remarks from Mr. HENDRICKS, in opposition to the motion, and in favor of the immediate passage of the bill, the question was taken on the recommitment, and agreed to: Yeas 24, nays 19, as follows:

YEAS—Messrs. Benton, Bibb, Black, Brown, Buchanan, Calhoun, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Morris, Preston, Robinson, Shepley, Swift, Tallmadge, Tipton, Waggaman, White, Wright—24.

NAYS—Messrs. Bell, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kent, Leigh, Moore, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Tomlinson, Tyler, Webster—19.

After transacting some other ordinary business,

The Senate, on motion of Mr. CLAY, proceeded to the consideration of executive business; and, when the doors were opened,

Adjourned.

WEDNESDAY, JANUARY 21.

ADMINISTERING OF OATHS.

Among other bills which came up for consideration to-day, the bill to authorize the registers and receivers of the United States land offices to administer oaths in certain cases connected with the duties of their offices was also considered as in Committee of the Whole.

Mr. POINDEXTER said that, several weeks ago, he had submitted a resolution, which was adopted by the Senate, calling on the Secretary of the Treasury for copies of the oath or oaths prescribed by the Department, to be taken at the land offices by persons purchasing the public lands. As yet no answer had been returned to this resolution, nor did he believe would be returned; and, in consequence, this bill was reported by the Committee on Public Lands, for the purpose of covering a palpable violation of the law in the oath prescribed by the Department. As he was still disposed to allow further time for an answer to the resolution, he moved, for the present, to lay the bill on the table.

This motion was agreed to.

W. C. EASTON.

A bill for the relief of W. C. Easton, engaged as an assistant clerk in the Commissary General's office, for additional salary, was taken up and considered as in Committee of the Whole.

Mr. HILL wished that the report of the Committee of Claims on this case should be read; which was done accordingly.

Mr. TIPTON made some observations in support of the claim.

Mr. HILL objected; the young man knew what his salary was to be when he engaged; he therefore moved that it lie upon the table; which was ordered.

JOSEPH WHITE.

A bill for the relief of the heirs of Joseph White being taken up,

Mr. HILL wished to hear the report of the committee read on this case.

Mr. SILSBEE supported the claim.

Mr. WEBSTER said that a quantity of sugar had been imported coastwise into Salem, and a mistake being made at the custom-house as to the port from whence it came, too high a duty was charged. The custom-house certificate is brought as testimony of the overcharge. The bill is to refund this sum, which amounts to 400 or 500 dollars.

The bill was then ordered to be engrossed and read a third time.

JOHN HUDRY.

Mr. BENTON, from the Committee on Military Affairs, to which had been referred the petition of Captain John Hudry, of New Orleans, reported a bill for his relief; which was read, and ordered to a second reading.

[During the reading of the bill, Mr. BENTON was informed, by one or two gentlemen near him, of the unhappy termination, this morning, of the existence of Captain Hudry, by his own hand.]

Mr. BENTON then rose and said that he was unaware, until that moment, of the melancholy decease of the gallant officer whose claims he had advocated. He had presented those claims at the last session of Congress, and had continued to press them until directed by the committee to report this bill. But he had just been informed by a Senator from Louisiana that Captain Hudry had, in a fit of despair, this morning, put an end to his existence; and the only duty now left him was to advocate the passage of the bill, in order that the heirs or representatives of the deceased might get what he was entitled to. He had no doubt of the justice of the claim. Captain Hudry was one of the gallant defenders of New Orleans, when it was attacked by the British forces in 1814; had greatly distinguished himself in the memorable action of the 8th of January, 1815; and had advanced large sums for the arming and equipping the company he commanded, when the Government was unable to furnish the funds for that purpose. Captain H. was at that time in affluent circumstances, but has since been reduced to poverty; and this circumstance, together with the anguish caused by the delay of his claims before Congress, has probably produced that state of despair under which he committed the rash act which terminated his life.

Mr. WAGGAMAN confirmed the statements of the Senator from Missouri, as to the merits and services of the deceased.

Mr. PORTER moved to recommit the bill to the Committee on Military Affairs, with instructions so to amend it as to authorize the payment of the claim to the legal representatives of the deceased claimant. The statements of the Senator from Missouri [Mr. BENTON] were perfectly true. There was not a more meritorious man in the United States than Captain Hudry. At the time he made the advances for which the bill provided payment, he was a man of large fortune, and Mr. P. had no doubt that he expended for the public service upwards of 22,000 dollars. He behaved with the greatest gallantry in the battle of the 8th of January, 1815; and commanded a company of fine troops, which he armed and equipped at his own expense. In his old age he had become poor, and had consequently come here for remuneration for the money he had expended. There was every disposition at the last session of Congress to do him justice, and that justice had only been delayed for want of time. Had he waited patiently he would, without doubt, had his claims passed at this session; but the sickness of heart, arising from hope deferred, had driven him to the act which ended his life.

Mr. KING, of Alabama, said he felt every disposition to concede to the gentleman's wishes, but this could be done without recommitting the bill. He (Mr. K.) happened to be a member of the committee to which the claim had been referred, and he was happy to say that the information laid before it in relation to the claim was found to be entirely correct. The merit of the individual and the justice of his claim could hardly be doubted. He would suggest to his honorable friend that the bill be amended so as to read, "pay to the heirs and legal representatives of Captain Hudry."

The Senate, by unanimous consent, having agreed to consider this bill as in Committee of the Whole, the amendment was adopted, and the bill was ordered to a third reading.

NICHOLAS D. COLEMAN.

The bill for the relief of Nicholas D. Coleman was taken up for consideration.

Mr. CLAY hoped that this bill would be rejected; there was not a particle of evidence that the warrant had not been already taken up, the land surveyed, and the claims satisfied. The perseverance of some claimants, observed Mr. C., is incomparable. This claim had been rejected over and over, again and again, and yet again it is brought forward. Here is a question of disputed right; even on the supposition that the evidence was good and conclusive, that the warrant had not been satisfied; yet, even in such case, the bill ought not to pass, for it is not expedient that Congress should be converted into a court for the decision of the rights and titles of individuals, and to decide who are the true heirs: for afterwards, it was not improbable, a fresh claim may be brought forward by another party claiming to be the rightful heirs.

After the reading of the report, and some further discussion by Messrs. LEIGH, BLACK, PORTER, and CLAY, the bill was lost, without a division, on the question of ordering it to a third reading.

GOLD MEDAL TO COLONEL CROGHAN.

The joint resolution to present a gold medal to Colonel Croghan, for his gallantry in the defence of Fort Stephenson, was taken up and considered as in Committee of the Whole.

Mr. BIBB observed that the brave and noble defence of this fort had been the cause of saving all the Western country from the hostile and destructive incursion of the British and Indians. To Colonel Croghan's valiant defence of Fort Stephenson, this and other advantages equally great and beneficial were owing. As a reward for the gallant and dauntless spirit exhibited by our brave soldiers in time of imminent danger, he hoped this bill would pass. It should be borne in mind that Colonel Croghan might, without any dishonor, have preferred a course safer, indeed, to himself, but disastrous to his country, by not persevering in a defence which appeared so difficult, nay, so impossible, that to have abandoned the fort, to have left the West open to the enemy, would have been deemed a necessary, a prudent, and not a pusillanimous proceeding; yet, in the face of every obstable, under the weight of every discouragement, he, with a handful of brave men, presented a bold and undaunted front to the enemy, arrested them on the threshold of the West, and saved Ohio and the adjoining States from invasion, from desolation, from plunder, and from bloodshed. For such a noble and deserving exploit, for such an eminent service, this bill provided a just, and but a moderate compensation. As far as regarded the value given, the bill was not of any great importance; but, sir, (said Mr. B. with great animation,) as a tribute to deeds of noble daring, as a reward of services performed at the peril of life, as an encouragement for soldiers who bared their bosom in defence of their country, and offered them as a shield to the defenceless homes of their fellow-citizens, in this point of view the provision is of the first importance. He hoped, therefore, that no difficulties would be offered to the bill; it had already undergone the closest examination, and the report of the committee establishing the goodness and propriety of the bill was full and satisfactory.

Mr. HILL wished to know whether all the officers were included in the bill.

Mr. BIBB replied that they were all, with one single

exception, in the case of an individual, whose name he should not mention, but who, he regretted to say, had not performed his duty on this memorable occasion.

Mr. PRESTON suggested the insertion of the words, "heirs and representatives," by which the benefit of the bill might be extended to the children, in case of the decease of the original grantees, which was acceded to; and the bill, as amended, was read a second time.

IMPROVEMENT OF THE MISSISSIPPI.

The bill making appropriations for the removal of a bar in the Mississippi river, opposite the city of St. Louis, being under consideration in Committee of the Whole,

Mr. HENDRICKS observed that the Senator from Missouri [Mr. LINN] would give full information on this bill.

Mr. LINN read several documents, showing the necessity of removing the bar.

Mr. BENTON, in support of the bill, confirmed the statement of his honorable colleague, [Mr. LINN;] he argued that the principle on which the bill was founded was clear and simple. St. Louis is a commercial town, a port of entry, and is in fact a sea-port; for, at this moment, it is actually nearer to the Gulf of Mexico than New Orleans was twenty years ago. He meant to say nearer as to time, and fact, and expense; for it required, twenty years ago, three weeks for a vessel to reach New Orleans from the Balize; whereas, now a vessel only took half that time to arrive at St. Louis from the very same place. The expense of bringing up ships to St. Louis was not now so great, by a considerable amount, as it formerly was to bring them up to New Orleans, such was the surprising effect and operations of steam navigation. St. Louis being by law a port of entry, the principle of the bill was therefore the same on which all commercial ports were made to be objects of national concern and improvement; the outlay required was for a national purpose; it tended to rescue national property from destruction and even ruin. The same principle had been acted upon in removing obstructions in the Ohio river, in the Red river, and in other navigable waters. He concluded by suggesting an amendment to the bill, namely: That the appropriation should be applied under the direction of the Secretary of War; which was adopted.

The bill was then ordered to be engrossed, and read a third time.

CHEROKEE PETITION.

Mr. FRELINGHUYSEN presented the petition of John Ross, principal chief of the Cherokee tribe of Indians, praying that the United States would purchase their lands, and cede them to the State of Georgia, &c.

Mr. F. said that the memorialists stated that the controversy which existed between the Cherokees and the State of Georgia had reached a crisis which required, as they apprehended, the interposition of the Government of the United States. They proposed that that part of the territory which they occupy should be purchased by the United States and ceded to the State of Georgia; and that, as to the residue of the territory, they wished it to be confirmed to the Cherokees in fee-simple. That, under this state of things, the Cherokees would submit themselves to the laws of Georgia, provided they had conceded to them those equal civil and political rights which were conferred on other citizens of Georgia.

This portion of the nation, he was instructed to say, comprehended fifteen thousand persons, and only about one hundred differed from them, for they had come to the deliberate determination, in council, not to remove west of the Mississippi. The whole subject had been completely and thoroughly submitted to their decision during the last recess of Congress; and they had, with most singular unanimity, made up their minds on the subject. They therefore proposed to become citizens of Georgia, under suitable grants; and they now submitted to Congress the propriety of the General Government, bound to them by so many treaties, to protect them in their rights: that it would so far interfere, by some suitable arrangement with the State of Georgia, as to secure them those humble privileges. He apprehended that this memorial deserved to be well considered and regarded by all parties to this unhappy controversy, as a just, temperate, and proper disposition of the whole subject. It surely could not be required by the authorities of Georgia, that any portion of that population over which they exercised jurisdiction in the State, should, whether willing or unwilling, remove to any other part of the country or world.

He apprehended that Congress might legislate or recommend to the Executive to negotiate on the basis of this memorial; those Cherokees being willing to acknowledge the authorities of Georgia, provided they should be received as citizens. And, to satisfy Congress that they wish to exact no unreasonable terms, they proposed, in their memorial presented at the last session, and in which was incorporated their present application, to make a cession of all that portion of the territory which was now in their possession to the United States, and receive as a compensation for it the extinguishment of the Indian title over that part of the country which was not absolutely necessary to the happiness and enjoyment of the Cherokee people; and that, for the residue of the title, the Cherokee occupants should be confirmed in it.

The application thus made to become citizens of Georgia, he thought, was a reasonable request, or ought to be esteemed so. The papers connected with this subject were very numerous, but he felt it his duty, for it was due to this people, to make this brief statement, as an abstract of their views on this important matter. Without detaining the Senate further, he would move that the memorial, without reading, be referred, with the accompanying documents, to the Committee on Indian Affairs, and be printed.

The motion was agreed to.

PUBLIC LANDS.

The bill graduating the price of the public lands, and providing for the sale of those which have been longest in market, came up as the special order; when

Mr. BENTON moved that the Senate proceed to the consideration of executive business, with a view to the despatch of business which remained unfinished.

Mr. CLAYTON remarked that there were several Senators unavoidably absent.

Mr. CLAY said he was desirous that the Senate should engage in executive business; and he came to the Senate chamber to-day for that purpose, but there were several Senators absent who desired to be present at that time. He therefore suggested to put it off till to-morrow.

Mr. BENTON then waived his motion, and moved to postpone the bill to Wednesday next; which was agreed to.

After disposing of several other bills,

The Senate adjourned.

THURSDAY, JANUARY 22.

CHEROKEE PETITION.

Mr. FRELINGHUYSEN rose and observed that, as some misapprehension seemed to exist in relation to the memorial presented by him yesterday from the Cherokee delegation, he had been requested to explain it. It was stated that the Cherokees proposed to cede to the United

States, for the State of Georgia, all their lands within the limits of that State. This was not the case. They proposed to cede all their lands except those occupied by the tribe; and, on the confirmation to them of the lands in their possession, they were willing to remain as citizens of Georgia, provided they could be assured of the enjoyment of equal rights with the other portions of the people.

ARMY APPROPRIATIONS.

Mr. WEBSTER, from the Committee on Finance, reported, without amendment, the bill from the House making appropriations for the support of the army for the year 1835, and the bill from the House making appropriations for the Indian department for the year 1835.

The first-named bill was then taken up and considered as in Committee of the Whole; when

Mr. HENDRICKS wished to inquire of the chairman of the Committee on Finance whether the one hundred and two supernumerary lieutenants contemplated in the estimate of the Department, all to be taken from West Point, are included in the bill. If so, he should vote against the bill, as he considered that these supernumerary graduates, receiving $81,000 a year, would have nothing to do.

Mr. WEBSTER said he believed there was nothing in this bill but what was necessary to carry into effect existing laws. It had been usual to make appropriations for West Point. In order to give the Senator from Indiana time to look into the law, he moved to lay the bill on the table until to-morrow.

The motion was agreed to.

WALTER LOOMIS.

The bill for the relief of Walter Loomis and Abel Gay was taken up, considered as in Committee of the Whole; amended, on motion of Mr. HENDRICKS, by limiting the sum allowed to $41 71; opposed by Mr. HILL, on the ground that it was claimed on a second measurement of the works on the Cumberland road, for which it was claimed; and advocated by Messrs. HENDRICKS and TOMLINSON, on the ground that the measurement in question had already been recognised as correct by Congress.

After several remarks on the merits of the case, by Messrs. TOMLINSON, HILL, and HENDRICKS, it was moved by Mr. WRIGHT that the bill be laid on the table, to wait the issue of Shepherd's claim.

Wr. WRIGHT said that these claimants had been paid by the Treasury more than was due, on false and collusive measurement of work done. The Treasury had threatened to sue the present claimant for the excess paid, and now he comes before the Senate claiming $40 as due to him.

The motion to lay on the table was then agreed to.

NATHANIEL TYLER.

The bill for the relief of the heirs of Nathaniel Tyler, of the Virginia line, was taken up, considered as in Committee of the Whole; amended, from the committee, by fixing the land at the legal minimum price; opposed by Mr. CLAY, on the ground of the inequity and danger of allowing the claim; advocated by Mr. LEIGH, on the insufficiency of the grants made by the United States; also by Mr. POINDEXTER, on the ground that similar claims had often been allowed, and that the case was only of an unlocated military land warrant; again opposed by Mr. CLAY, on the ground that Virginia had made ample reservations for all just claims, both from her State and continental lines; and that the grants of the United States were expressly limited to the lands between the Scioto and Miami rivers.

The bill, on motion of Mr. CLAY, was for the present laid on the table.

Mr. CLAY signified his intention, in consequence of the absence of some members of the Senate, not to move to-day to go into executive business.

After taking up and going through with various other bills,

The Senate adjourned.

FRIDAY, JANUARY 23.

Mr. KENT presented the credentials of the honorable ROBERT H. GOLDSBOROUGH, elected a Senator from the State of Maryland, to supply the vacancy occasioned by the resignation of the honorable EZEKIEL F. CHAMBERS.

Mr. GOLDSBOROUGH appeared, and the usual oath to support the constitution of the United States being administered to him by the VICE PRESIDENT, Mr. G. took his seat as a Senator of the United States.

ARMY APPROPRIATIONS.

On motion of Mr. WEBSTER, (chairman of the Committee on Finance,) the bill making appropriations for the support of the army for the year 1835, yesterday laid on the table, was taken up.

Mr. WEBSTER said that that provision of the bill making payment to supernumerary lieutenants who had graduated at West Point was, as he had yesterday suggested, inserted only in conformity with the requirements of the existing law. The provision on this subject was to be found in the fourth section of the act of April, 1812, which provides that, when there are cadets unattached, they shall be provided for as supernumerary lieutenants; but that not more than one shall be appointed at the same time to each company. Now, Mr. W. added, there were at present 132 companies in the army, and only 101 lieutenants; so that actually a less number of supernumerary officers were employed than the law allowed. According to the existing law, payment was provided as well for those unemployed as those actually in service.

Mr. HENDRICKS did not consider this matter as having any reference to West Point, but merely as to the army. It had nothing to do with the school at which the officers of the army were educated. He had examined the law of 1812, and found it to be exactly as stated by the honorable Senator from Massachusetts; but he did not know how to reconcile the estimate which he had noticed yesterday with the law passed subsequent to 1812. He had not been able to find in the act of 1821, or any other since 1812, any law authorizing the appointment of these supernumeraries. Even if it was according to custom and usage, it would certainly be wrong. He did not intend to oppose the appropriation; but he thought this was a subject well deserving the consideration of Congress.

He was not unfriendly to the army; on the contrary, he wished to see it preserved in all its efficiency and strength. And, in regard to the West Point Academy, it had his best wishes, though he entertained the opinion that it had grown too large, and produced too many officers. There were so great a number of supernumerary ones that we know not what to do with them. He thought the institution ought to be modified, both as to its number and its principles.

Mr. WEBSTER said he was quite willing to go into an examination of the principles and operation of the West Point Academy, though he did not know much about the matter then. Still he had no objection that the whole subject should be investigated. He thought, however, there could be no difficulty about the point of law

arising in this case, as he had explained it, unless it had been altered by the law to which the Senator had referred; but he (Mr. W.) thought it had not. Indeed, he entertained no doubt as to the law.

Mr. HENDRICKS said he had hoped that some other authority would have been shown besides that which the gentleman from Massachusetts had quoted. The law, however, which he (Mr. H.) had read, set forth that such and such companies should be provided for—that all supernumerary officers of the army should thenceforth be immediately discharged. And he thought that in that provision these were included.

The bill was then ordered to a third reading.

Mr. CLAY rose and said that, owing to the continued indisposition of one or two Senators, he would not move to go into executive business to-day; but that he would, on Monday next, make a motion to that purpose, in order that the Senate might settle at once the executive business before them. While up, he would move that, when the Senate adjourn for the day, it adjourn to meet on Monday.

This motion was carried.

WILKINSON GOODWIN.

The bill for the relief of Wilkinson Goodwin was taken up and considered as in Committee of the Whole.

Mr. KING, of Alabama, objected to the principle which it was here proposed to act upon. An assignee of an assignee comes here claiming a change of location, and to receive better lands than those originally purchased.

Mr. POINDEXTER moved that the bill be indefinitely postponed, on the general principle that, if mistakes in the location of land are made by the individual purchasers, they cannot legitimately look to Congress to rectify their own errors.

WYATT SINGLETON.

A bill for the relief of Wyatt Singleton and James Andrews coming up,

Mr. BLACK moved that it be indefinitely postponed. These claimants brought affidavits, but there was no proof that they were certified by authorized magistrates. To manufacture affidavits, and, with them, to manufacture claims, would, if this were permitted, be any easy thing.

Mr. PORTER hoped the motion would not prevail; but that, in order to allow examination to be made, the bill might be laid on the table; which was agreed to.

DAVID McCORD.

The bill for the relief of David McCord then came up for consideration.

Mr. SMITH explained the nature of this case: David McCord, a receiver of public money, and having a sum of $2,000 in his hands, belonging to Government, was taken sick, and lay at the point of death. In this situation, being anxious for the safety of the public money, he sent for Alexander Pope, a Government agent, and deposited the money in his hands for safe-keeping. McCord then died. The money being now in the hands of Alexander Pope, that individual wrote immediately to the Secretary of the Treasury, stating the fact of his having this money in his hands, and asking instructions as to what he ought to do with it. The Secretary, in his reply, approved of all that had taken place hitherto, and directed that the money should be deposited by Alexander Pope in the United States Branch Bank at Mobile. The case does not end here; but if it did, it must appear plain to every one that David McCord and his heirs are, so far, liberated from all responsibility in reference to this money. But now it is that the case properly begins. Alexander Pope took this money according to the direction of the Secretary, put it into his pocket-book, placed his pocket-book in his trunk, then placed his trunk on board the steamboat Florida, and started with his precious burden from Cahawba, to sail down the Tombigbee, for Mobile.

But alas! on the same evening on which the steamboat left Cahawba, the night being very dark and stormy, when the boat had not proceeded far, it caught fire; in the dreadful alarm and confusion of such a scene, life was to every passenger a more important consideration than his baggage; with great difficulty the passengers were rescued from the burning boat, with the total loss of all their personal property; one passenger perished in the flames; now, in this scene of confusion and terror, Alexander Pope lost his trunk, and with it the Government money. These facts have been verified before the committee which has inquired into the case. Pope swears, and brings evidence to the fact, that the money was safely deposited in his trunk, and the trunk stowed away in the boat, and never having been seen since the fire, it appears that it was destroyed in the flames. Such being the circumstances of the case, the committee think David McCord's estate ought not to be made liable for this money, and that the amount of it ought to be credited to him.

Mr. KING, of Alabama, said the case having occurred in his country, he was acquainted with it, and he fully corroborated the narration made by Mr. SMITH. He hoped the bill would pass, for he thought there could not be any doubt entertained but that the claim of the Government ought not to be enforced against the heirs of David McCord.

The bill was then ordered to a third reading.

DAVID BAIRD.

The bill for the relief of David Baird was then taken up, and the report of the committee on the case read, by desire of Mr. HILL.

Mr. HILL observed, it appeared that this bill was to grant remuneration for goods seized and condemned, without any evidence that there had been any illegality in the proceeding. He thought it too late in the day (viz. since 1812) to come forward for remuneration now.

Mr. SMITH would explain the case. The petitioner kept store at the time of the war, and on its breaking out had two stores--one in Canada, and the other in the United States. He had made a large purchase for his Canada store, of goods to the value of $40,000, and it so happened that while these goods were on their way to his Canada store, war was declared. He thus was placed between two fires, and in an embarrassing dilemma: what could he do? If he went forward, the goods would be seized as the property of an enemy: if he went backward, they would be seized in his own country as contraband. He preferred to run the latter risk, and thought it better to fall into the hands of his fellow-citizens, than into the hands of the enemy: he did so, and all his goods were seized by the United States custom-house, as lawful prey; they were sold, and half the proceeds went to Government, the other half to the officers. The bill before the Senate is to afford redress in this case.

Mr. SHEPLEY thought that the claim ought not to be allowed, without giving the United States officers accused of fraud, an opportunity of being heard; he therefore proposed to amend the bill by striking out the latter part, and in lieu thereof authorizing the Secretary of the Treasury to examine more fully into the case.

Mr. CLAYTON opposed the amendment; he thought it improper to refer this subject, in its present stage, to the Secretary of the Treasury. He stated that the Committee on the Judiciary could arrive at no other rule of justice, than to allow the claimant the amount which had

actually been received into the treasury. He urged that the claimant, even if he had not been decoyed by the collector, had a right to a remuneration, since, while he was proceeding with the goods, with a view to their exportation, he was unexpectedly arrested by a declaration of war, and pushed his goods into one of our own ports, in preference to letting them fall into the hands of the enemy. With a view to give the subject further consideration, he moved that the bill for the present lie on the table.

Mr. SHEPLEY disclaimed any design to reverse the opinions of the Committee on the Judiciary, by referring the subject to the Secretary of the Treasury; his object was merely to obtain further information, and give the officers implicated an opportunity of being heard in their own behalf. He plead precedents to justify the measure which he had proposed, and disclaimed any wish to give the final decision of the case to the Secretary of the Treasury.

Mr. FRELINGHUYSEN gave a brief history of the progress of the application in this case, of six years standing, to show that the subject had been fully investigated. He was opposed to any further delay.

Mr. CLAYTON stated that many reports of committees had been made in favor of the claimant, and that he had been assured that, upon bringing competent evidence in his favor, the claim would be allowed without delay. He, Mr. C., was willing that the Secretary of the Treasury should be called on for additional facts, if any could be found; but he was unwilling that the Secretary should draw conclusions from those facts for the committee.

The bill was now ordered to lie on the table, without opposition.

COLONEL WILLIAM BOND.

The bill for the relief of Colonels William Bond and William Douglas being taken up for consideration,

Mr. HILL observed that, on a former occasion, in a claim of this kind, presented in the name of —— Holmes, it had been discovered, after the passage of the bill in his favor, that the claims had been already paid once before. Mr. H. said he knew Dr. Holmes, and that he had been hunted up by agents who busy themselves in patching up claims and finding out claimants. Dr. Holmes had no idea but that his father's claims had long ago been satisfied, and so it proved indeed, after it had been paid a second time. Mr. H. had not a doubt but that these claims also had once been paid; encouragement ought not to be given to a set of harpies who made it their sole business to root up old documents, and who aimed at getting satisfied claims brought forward and paid over again.

Mr. SMITH, Mr. SHEPLEY, and Mr. LEIGH, spoke severally in favor of the bill.

Mr. TYLER was sorry that the committee were so averse to allowing these claims. He urged that if there had been decisions against them, as stated by his colleague, there had also been many decisions in their favor.

Mr. LEIGH was opposed to going largely into the argument at the present time; he observed that a full opportunity would be given for this purpose after Monday next.

Mr. TYLER acquiesced in waiting for this opportunity to remove the prejudice which rested against the general merits of the claims.

Mr. HILL opposed the applications on these claims as a kind of lobby stock-jobbing business; he contended that when the merits of the claims were fully examined and discussed, the decisions were against them, and in their favor only when they were admitted without discussion.

Mr. MOORE remarked that it was not the practice of Congress to allow interest on commutations from the time that the claims originated, but it was the practice to allow it from the time the claims were substantiated at the Department. He was surprised that any debate had arisen in this case, as it was decidedly agreeable to the usage of Congress. He insisted that even if the agencies existed which were alluded to by the Senator from New Hampshire, of which, however, he (Mr. M.) had no knowledge, they had nothing to do with the real merits of the claims.

Mr. WHITE also urged the usage of Congress in favor of allowing these claims, and stated that though in general he was opposed to allowing interest, yet, in this particular case, he was in favor of doing it.

Mr. BIBB commenced a few remarks on the general question.

Mr. LEIGH interposed, and objected to a discussion now on the general subject, and wished the debate might be confined to this particular case.

Mr. HILL was of opinion that the general question was embraced by this bill.

On motion of Mr. SHEPLEY, the bill was amended by striking out, and inserting "27th March, 1792."

The bill as amended was reported to the Senate, and the yeas and nays on its third reading were ordered, on motion of Mr. HILL.

The bill was ordered to be engrossed for a third reading, by yeas 22, nays 13.

On motion of Mr. BENTON, the Senate adjourned till Monday.

MONDAY JANUARY 26.

POST OFFICE REPORT.

After the usual morning business had been gone through with,

Mr. EWING, from the Committee on the Post Office and Post Roads, made a report, the reading of which was called for.

The reading of the report was commenced by Mr. EWING, and continued by Mr. SOUTHARD.

At 4 o'clock, Mr. CLAY moved that the Senate adjourn, stating that there was a considerable portion of this report which had not been read, and that a counter report would be presented. He excused himself for not making his promised motion that the Senate go into the consideration of executive business, which he had intended to make but for interruption caused by the reading of this report, which had put it out of his power.

The Senate then adjourned.

TUESDAY, JANUARY 27.

POST OFFICE REPORT.

After the journal of yesterday had been read,

Mr. EWING moved the Senate to proceed to the consideration of the Post Office report; which being agreed to, the reading of the report of the committee was resumed.

At a quarter brefore two o'clock, Mr. EWING terminated the reading of the report, when

Mr. GRUNDY rose and stated that the report which had been read contained the views of three Senators in the committee, constituting the majority. The Senator from Illinois [Mr. ROBINSON] and himself had prepared a document, giving their views of the subject, without any reference to the report of the majority. He would now move that this paper be also received.

The Senate having agreed to receive the paper, Mr. GRUNDY proceeded to read the same, occupying until about half past 3 o'clock.

Mr. GRUNDY wished to move the printing of the reports, but, at the suggestion of Mr. EWING, withdrew

his motion until the bill accompanying the report was presented.

Mr. CALHOUN called for the reading of the bill reported by the committee: and it was read, and ordered to a second reading.

Mr. GRUNDY hoped the bill would at once receive its second reading by its title, intending, he said, to submit a motion for its recommitment to the Post Office Committee. He believed himself, and it was believed by all the other members of the committee, that, to make the bill perfect, some other provisions should be ingrafted on it, which could be done with more celerity and convenience by those whose duty it had been to make themselves masters of the whole subject, than by other members of the Senate who had derived their information by listening to the reading of the report.

Mr. EWING said the Senate were, perhaps, aware of the pressure of business attendant on this investigation. It was not in the power of the committee to give that attention to the provisions which were incorporated in the bill which had just been read, as they could have wished. But they thought that after the presentation of the report, and the bill having undergone a first reading, it would be as well to recommit it. He was perfectly willing, if it was the unanimous wish of the Senate, that the bill should be recommitted.

Mr. CLAY hoped that some other course would be preferred to the one proposed by the chairman of the committee, [Mr. GRUNDY.] We all wish, said he, to look at the provisions of this bill, as well as the members of the committee; and if the printing be ordered, the bill still remaining in the power of the Senate, each member of the committee could, from their knowledge of the subject, prepare such amendments as they thought fit; and other Senators would have the same advantage.

Mr. GRUNDY said that, whether the bill was recommitted or not, it would of course be printed, and each gentleman could have it under examination while the committee was preparing their amendments. He had proposed the recommitment, both with a view of saving time, and of having the additional provisions, which every one agreed should be ingrafted on the bill, prepared by those who had well considered the subject. A recommitment would not prevent any Senator, who felt so disposed, from preparing such amendments to the bill as he deemed necessary.

Mr. CLAY replied that, if the bill was to be printed at once, so as to be in the hands of every Senator, the objections to the recommitment would not be so strong. It seemed, however, to be a little out of the usual course of the business of the Senate, for one of its standing committees to report a bill that was to be immediately thereafter recommitted for amendment, before the Senate could possibly have time to examine into its provisions.

Mr. CLAYTON expressed a hope that the bill might not be recommitted, and that the honorable chairman would not persevere in a motion which, if successful, would lead to a dangerous delay in the adoption of this important measure. This bill contained the first regular proposition that had ever been submitted to Congress for the organization of the Post Office Department, on the true principles of the constitution. Hitherto the revenue received for postages had been regarded precisely as if they were no portion of the public treasure; and although the constitution had provided that no money shall be drawn from the treasury but by law, yet an annual sum, exceeding two millions of dollars, was expended at the will of a mere chief of Department, without any restraint, control, or action of Congress upon it whatsoever. The bill also contained a most important provision, limiting the terms of office of all postmasters, subjecting their appointment to the supervision of the Senate. Without going further into the subject at this time, he would content himself with a general declaration of approval of the result of the labors of the committee, so far as regards this bill; and, as he desired to see it passed without essential alteration, he could not assent to a recommitment which might change or defeat it. If any additional provisions of a beneficial character could be suggested by any member of the committee, not destroying or altering the leading features of the bill, they may as well be suggested without as with a report. In this form he would be happy to receive them; for by such a course the passage of the bill would not be endangered.

Mr. GRUNDY observed that it was certainly not his disposition to press the recommitment of this bill against the will of any member of the Senate; and if the Senator from Ohio [Mr. EWING] would name some day for its consideration, and move to make it the order of the day for that day, he would cheerfully acquiesce in the motion.

Mr. PORTER said he was in favor of the recommitment of the bill to the committee. They could, when they had it before them, most probably find a common ground on which they might unite, and give back to the Senate the project of a law which would receive their unanimous consent. They could better there, too, than in the Senate, correct its phraseology, and present their labors in a shape satisfactory to themselves.

Mr. P. said that this was the first time, since the commencement of the session, that a suitable opportunity had been offered him to put a question to the chairman of the Post Office Committee, and he gladly availed himself of it. He wished to ask that gentleman whether any proposition had been made at the last session of Congress to vote an appropriation to meet the deficiency in the funds of the Post Office Department?

[Mr. GRUNDY said the honorable Senator from Louisiana knows as much on that subject as I do. I certainly have no recollection that any such proposition was made, much less that any vote was taken on it. There was something said about the matter in the report of the majority of the committee, and something in that of the minority—nothing more.]

Mr. PORTER continued. The answer of the honorable Senator was precisely what he expected from his candor and knowledge of the matter in question. Such also was Mr. P's recollection, and his remembrance of what passed then was fortified by a recurrence to the journals of the Senate. But as he had seen it stated, under the hand of the President of the United States, that he (Mr. P.) had voted against an appropriation to relieve the embarrassments of that Department of the Government, he was afraid that something had occurred when he was absent from the Senate, which might have given color to the accusation, and induced the President to make this charge.

Mr. P. said it was painful to him to notice this matter at all, but he was compelled in self-defence to do so. For months he and his colleague had remained under the imputation that it was owing to their votes, on a proposition to lend money to the Post Office, that the people of Louisiana had been deprived of the daily mail which, previous to the month of June last, had been carried there; when, in truth, the change was caused by the multiplied corruptions and defalcations of the Post Office Department itself, and was entirely independent of any acts or words of the representatives of Louisiana in this body.

So far, indeed, from there being any foundation for the imputation that they were unwilling to lend money to the Department, it will appear by a reference to the journals of the Senate that they voted to lay the report of the majority, which denied the propriety of lending money at that moment, on the table. It is true, they

also voted to lay the report of the minority on the table; and in this respect they voted with the whole Senate. No opposition was made to the motion, nor any division called for. So that there was just as much reason to charge every member in this body, who usually supports the administration, with being unwilling to vote money to relieve Mr. Barry, as there was to make the accusation against the Senators from Louisiana. It is quite new to me, said Mr. P., that in voting to lay a report on the table, I am understood as approving every thing it contains. The very opposite conclusion would seem more legitimate. But, in truth, so many reasons may require a vote of this description, that nothing can be fairly inferred from it one way or other.

Mr. P. said the accusation of which he complained had been made in a letter from the President of the United States to a committee, who were charged by a large body of the citizens of New Orleans to ask from him a restoration of the customary mail facilities of which they had just been deprived by the Postmaster General. Many people in Louisiana were so surprised, he said, at seeing this accusation, which, if true, offered no good reason for depriving the commercial community of early intelligence, that every one cast around him to find a reason for it. Some said the President was very angry with their Senators for being in opposition to him in regard to the removal of the deposites. Others, that it was to let the citizens of the State know how badly they were represented here; while there were many who, without professing to assign any motive for the denunciation, insisted that nothing would have been said on the subject, if an election for Senator from Louisiana had not been close at hand. Against the correctness of the imputation last mentioned he had uniformly protested, and had endeavored to convince every one that the President was wholly incapable of writing the letter with any such purpose; incapable, because it was descending from his high station to mingle in conflicts, and share in passions, which he should be, and which Mr. P. hoped he was, far above; and more especially incapable in this instance, because the President knew the people of Louisiana well, and knew that, of all others, they were the least likely to surrender their principles for arrangements merely affecting their ease and comfort. He was sorry to say he left many incredulous on this head. Notwithstanding every thing he could advance, they insisted that, as the fact was not as stated, and that if it was, as it was no justification for abridging the mail accommodation to New Orleans, the letter must have been written with that object and no other.

Mr. P. said he had done all in his power to remove the impression, and he must leave it to others to do it away entirely. He seized on this occasion, however, to most cheerfully state, what he sincerely believed, that the President was perfectly convinced the Senators from Louisiana had voted as he stated they did. He had not harbored the thought for a moment that he would assert what he did not think was true in relation to himself and colleague. What he (Mr. P.) complained of was, that the President acted on the information of those interested to deceive him, and had not examined the subject for himself. If he had, he would have discovered there was not the least foundation for the accusation.

Mr. P. concluded by stating that he would, at another time, notice the letter of the Postmaster General to the President, in which he, too, had taken upon him the task of arraigning the Senators of Louisiana. He should treat that officious interference as it merited, and with a very different feeling from that which the errors of the President had inspired him with.

Mr. EWING said, as he understood the member from Tennessee as having withdrawn his motion for a recommitment, he would move to postpone the bill to, and make it the order of the day for, Monday next. In the mean time, the bill would be printed, and in the hands of every member.

Mr. CALHOUN wished to inquire whether, in the event of a recommitment of the bill, the decision of the committee, with regard to the amendments to be proposed to the Senate, would be unanimous. If some necessary amendments could be ingrafted on the bill without loss of time, it would be exceedingly desirable, as the bill was of such importance that unanimity in the expressions of the sentiments of the Senate could alone render its provisions as valuable as the occasion demanded.

Mr. GRUNDY never saw the bill until this morning, before it was presented to the Senate, and he therefore could not say whether all its provisions were satisfactory to him. He had, as yet, made up no opinion as to many parts of the bill, although there were some which would have his entire concurrence; but he could say to the Senator from South Carolina, that there were several provisions not in it that he wished ingrafted on it.

Mr. CALHOUN then moved to recommit the bill; but having been informed by the Chair, [Mr. KING, of Alabama,] that the motion was not in order while the question of postponement was pending, withdrew it. Mr. C. wished particularly to know from the committee whether all the corruptions and abuses discovered by them in the Post Office Department could be traced solely to its defect of organization. This was an important point to be considered before the Senate decided on prospective legislation to provide only against future abuses.

Mr. PRESTON rose and said that he did not propose to interfere in the disposition of the bill, but he was desirous to be informed as to a matter, in his opinion, of the most grave importance. The Senate had listened to voluminous reports of the majority and minority of the committee, and they were accompanied by a bill for the reorganization of the Post Office Department. This bill was reported as a remedy for the evils which had been pointed out by the committee. It appeared to be the conclusion of the committee that the reorganization of the Department would be the cure for the evils which existed in the Department; or, in other words, that all the evils pointed out were the result of the mal-organization of the Department. Was any gentleman prepared to say that these enormous, not to say outrageous, evils, were the effect of mal-organization only? Was any one ready to say that the Senate should follow up this extraordinary, enormous, humiliating exposition, with no other measure than a prospective remedy? It would be recollected that this was not the first occasion when such extraordinary developments of the corruptions of the Department had been made. By a unanimous vote of the Senate at the last session, it would be remembered that condemnation had been passed on the Department for these abuses.

The honorable Senator from Louisiana had alluded to a declaration of a high person. He would now call the attention of the Senate to another declaration of that high person. He had declared, last session, that he was the sole Executive, and was alone responsible for the conduct of his officers, and that they were solely responsible to him. This was his declaration last session, before it was supposed that such rottenness would be dug up as had now been discovered. While this declaration was still vibrating on the lips of the Executive, that all executive power was vested in him, and such an exposition as this was made, without even an attempt at contradiction, although all the sewers of the press were pouring their filthy abuse upon the committee, was he to be told that the only blame was to be cast on the organization of the Department, and the only remedy was to be found in a reorganization? Was it true that

they were all ascribable to an improper organization? He was very unwilling to pronounce judgment on individual character, but from what he had already heard, he should reserve himself for a still narrower and stricter investigation. There had been deep turpitude connected with this Department, and its existence had been permitted for years, until it had produced the foul and monstrous corruption which had been now developed. The Government had not yet crept to the age of manhood, and yet it had obtained this maturity in corruption. Was there then to be nothing but this prospective arrangement, from which there would be no advantage in bringing to punishment those who had been fattening on the public spoils? Was it proper for the Senate to stand by and see such a state of things? If the public officers had acted thus improperly, and the President chose to assume it as his own act, was this House to submit? When he thus asserted his sole responsibility, was this House to remain silent? Let it not be said that it is inconsistent with the policy of Senators to go into this matter now. If not now, he was fearful that it would not be touched this session. He was anxious to lay his hand on the culprits. God grant there might be none among them for whom he had a kind feeling. But, even if so, he would do his duty as a representative of the State of South Carolina, and hold him up to punishment. He would ask, then, if the Senate were to be put off with this bill, and there was to be no further investigation of the past? After the committee had gone through such honorable labor, there ought to be some other conclusion.

Mr. EWING, in reply to the Senators from South Carolina, would simply say, on the part of the committee, that they did not believe that the corruptions and abuses discovered by them were consequent on the defective organization of the Post Office Department. But, at the same time, he must say that the committee never believed that these corruptions and abuses could have amounted to the enormous extent shown in the report, had the Post Office Department been organized like the other Departments of the Government. The committee had boldly and openly expressed the opinion that the vilest frauds had been committed in the transactions connected with that Department; but they had not proposed to devise any remedy for the evils that have passed, though they proposed a measure to prevent their recurrence. The committee did not believe that they could propose any remedy for the evils that have existed. They had not shrunk from the expression of the most candid and open opinion as to the flagrant abuses of trust, and of public law, committed in that Department; and they did not hesitate to say that the President of the United States ought long since to have hurled from their offices, with indignation and disgrace, those who had so shamefully violated the high and sacred trusts reposed in them. Opinions in relation to the facts brought to light by the committee could as well be formed by any Senator as by a member of the committee; and it was for this consideration that they had not thought it necessary to present a resolution expressive of the sentiments of the Senate.

Mr. CALHOUN said he earnestly hoped that some Senator would present a resolution expressing the sentiments and feelings of the Senate on the gross corruptions which had been exposed in the report. He had listened with the profoundest attention to the reading of the report and documents, and could solemnly aver that his most powerful feelings were those of the deepest shame and mortification. During the twenty-two years in which he had in some form or other been connected with the Government, he never could have conceived that such rottenness, such corruption, such abominable violations of trust, could ever exist in any of its departments as those he had just listened to, he repeated, with the utmost mortification. The guilt of this Department was open and palpable. No one on the floor of the Senate could be bold enough to rise in his place to extenuate or palliate it. All saw and lamented the rapid strides which deep and debasing corruption had made in it. It exceeded any thing in the history of the rottenest ages of the Roman empire. Could it be possible that any one on that floor could rise and attempt to sustain this Department, after listening, as they had done, to these most extraordinary and mortifying disclosures of the committee? Should the President sustain, and the people submit to them, there would be for ever an end to our institutions. He did hope that some Senator who had more leisure than he had, would look into these documents, and prepare a resolution expressing to the people of the United States the opinion of the Senate in relation to them.

Mr. CUTHBERT said he was far from agreeing with the Senators from South Carolina. The committee had manifested much more wisdom in the course they had pursued than would have been done by adopting their recommendation. They had recommended legislative measures for the purpose of remedying evils which we could not remedy. Did we want the voice of party again to resound through these halls? If it was to be made a party cause, let it be made at a proper time, and not mingle it with the proceedings of this committee. Was this country so corrupt that the people were incapable of seeing and correcting any errors which might creep into the Government? Or was the Government so corrupt that an attempt should be made to weaken the attachment of the people to it, and the institutions of this country?

Mr. BENTON said that he would not have uttered one word on the subject before the Senate, had it not been for the remarks of the Senator from South Carolina, [Mr. CALHOUN,] who sat immediately on his left. If he understood that Senator right, he was for making a trial of the Senators on that floor. He was for proceeding judicially against the officers of the Post Office Department, for the purpose of making a trial against Senators in opposition to him. If this was the case, all he had to say to that Senator was, that he was ready to proceed, either to-day or to-morrow, to the trial.

Mr. CALHOUN said that he could not help expressing his surprise at the imputation that this was made a party question. Who dreamt of making it a party question? If there was any one present who wished to identify himself with such a thing, let him step forth. He wanted to try no man. But here was a voluminous document, that not one-hundredth part of the people of the United States would have an opportunity to read when printed, and they would take the impression with which it had been received in this body as its true character. Did not the Senator (addressing himself to Mr. BENTON) see that, if nothing was said in regard to the report, the impression would be made abroad that the deplorable state of the Post Office affairs would be attributed merely to its being ill-organized? What he (Mr. C.) would say was this, and he would boldly say it: it belonged to the people of the United States that they should know the sentiments of Senators on these transactions of the Department. That was what he avowed. And how could they know them, unless by incorporating the essence of what was contained in the report in a resolution. He verily believed that there was no Senator present who could object to such a proposition. The vote on it must be a unanimous one. And surely the zeal of the honorable chairman of the Post Office Committee would not carry him so far as to make this a party question. Make it a party question! Who dreamt of such a thing?

Did the gentleman from Georgia [Mr. CUTHBERT] wish to identify himself with such a thing? Was that a party question which the gentleman supposed to be made? He dreamt of nothing of the kind. He had but one sentiment on this subject; and that was a deep, profound melancholy. Those who acted with him felt the deepest mortification that in so short a time such transactions could exist in this country, and could be so long tolerated. No; he acted boldly, and declared distinctly what he meant, when he repeated that the people of the United States should be put in possession of the sentiments of the Senate in regard to the document now before it. His object, then, was to obtain an expression of them. If the conduct of the Post Office Department was different from what it was said to be—if there were any sentiments which could be avowed in its favor, he should be happy to hear them.

He had made it a point to attend to the reading of the report, as he did not know that he should have time to peruse it after it was printed. If there was any diversity of opinion, it was due to them that they should have an opportunity of expressing their sentiments. His object was to obtain a fair expression of the opinion of this body. If no other gentleman would make a motion to that effect, he would. No denunciation—no charge of party—could ever have the slightest influence on him. What he had said, he would repeat—that he had done so from a conviction of his right and duty, and he was not to be intimidated. His object was free, direct, open, and avowed.

Mr. C., in conclusion, again said that his only object was that the people should be put in possession of the sentiments of the Senate.

Mr. CUTHBERT observed that no objection would be made by him to prevent the Senator from South Carolina [Mr. CALHOUN] from pursuing any course his over-inspiring zeal dictated. What he was about to say was, and he would maintain it, that, in the present stage of the business, to pursue a judicial course would neither be consonant with the dictates of good taste, in good feeling, or warranted by sound judgment. This much he was ready to maintain, and he invited the gentleman to proceed.

Mr. PRESTON replied. He had asked of the committee if they had not intended to offer any resolutions expressive of their convictions and views concerning the conduct of the Department. And it had been objected to him that he was interrupting the ordinary course of things, and had evinced a disposition to raise party feelings in this hall on one of the gravest matters which had ever been presented for consideration. No one knew better than himself the strength and influence of party feeling. He acknowledged himself to be a party man, affected, in some degree, by that feeling; and, yielding the same measure to others which was dealt out to himself, he might well be permitted to distrust the gentlemen on the other side of some slight infection of the same feeling. What was the ordinary and regular course in matters of this kind? The committee were empowered to report by bill or otherwise. They had reported by bill. And this bill did not carry out the views in the report of the conduct of the Department so strongly as they might have been enforced by resolution. The gentleman from Ohio had said that the committee looked to a prospective remedy. Now, he (Mr P.) wanted a vivid and unequivocal expression of the over-boiling, honest, and indignant feelings of the Senate at this glaring exposition of abuses. Was this party feeling? What was the course pursued last year? The Committee on the Post Office had reported sundry resolutions expressive of the feelings then produced by investigation, and the same ought to have been their present course. And was the recommendation of this principle, which was entertained at the last session, to be scouted as an attempt to excite party feelings? Was it to be itself characterized as a burst of party feeling? The corruptions of the Department could not be concealed. They had become so manifest to the public eye, that no one could be found to defend the enormons frauds which were set forth in the report of the committee.

On the vote last year on one of the resolutions of the committee, party feeling had entirely subsided. Gentlemen who had been pitted against each other all the previous part of the session, maintaining their adverse opinions with the utmost vehemence of expression, agreed on that occasion, and every Senator, as his name was called, not excepting even the chairman of the Post Office Committee himself, concurred in voting for the resolution declaring the course of the Postmaster General a violation of law. It never had entered into the heart of any one man that the feeling on that occasion partook of party spirit. But if the black catalogue now presented deserved the coloring given to it in the report of the committee—if the facts stated in the report of the majority were true, as stated, he should protest, under the operation of party feeling, perhaps, to a certain extent, that no circumstances connected with party feeling could have induced him to desire that such an exposition should go abroad. He had no desire to see a system, so generally good as ours, injured and degraded by such fraudulent practices. He had hoped that he should never, as a party man, be furnished with such a weapon as this to wield against this administration. He should have been glad to see a resolution similar to that which was adopted last session by the unanimous vote of the Senate. He should be glad to meet the gentleman from Georgia on any resolution so worded as to avoid the imputation of party feeling, for the purpose of giving a correct expression and imbodying of the views of the Senate.

Why (said Mr. P.) should we stir up party feeling now? What object can we hope to obtain? We have been beaten. I yield that to the gentleman from Georgia. And it would now be useless to make any attempt to stem the tide which sets so powerfully against us. I could not therefore desire to stir up party feelings in the breasts of others; nor for our own good, nor for any purpose, take any party ground. But, although he entertained these views, he considered it to be his duty, under his oath, to do every thing within the grasp of his ability to arrest the torrent of corruption which was now spreading its destructive inundation over the land. Unless this was done, God only knew what would be the consequences. Therefore, he had entertained the hope that the committee would have offered a resolution cal culated to remove this foul stain upon our national character. The plague spot had appeared upon the bosom of the infant; and it was their duty to do every thing in their power to remove it. If it must prey on the whole of the body politic, and our institutions must fall a victim to the foul and loathsome disease, let the Senate be able to say that they had done all they could do to arrest its progress.

He had made this suggestion on the subject of a resolution, because it had been the habit of committees to do so, and they might do it in this case with perfect propriety. Last year a string of resolutions accompanied the report, as well as a bill. There could be no person who had any doubts of the existence of malfeasance in the Department; and that its administration had not been conducted as a due regard for the interests, the honor, and the dignity of the country demanded that it should have been. Was it proper, then, when these facts were presented in such black and glaring colors, that the Senate should receive the information in the ordinary manner, and coolly pass on to the orders

of the day, just as though nothing had happened. He had intended to say nothing on this subject, and would not have risen but for the apparent apathy of the Senate in reference to the matter, but he feared lest this apathy might be received as an acquiescence in a state of things which ought not to be tolerated. It might be inferred that there was a disposition to acquiesce, when only a prospective remedy was offered by the committee, as if all the abuses which had been detected and exposed had been merely the result of the mal-organization of the office. He was convinced that they were not all the result of that mal-organization, but that they were to be ascribed, in a great degree, to the corruptions of the officers employed there. If such a collection of vermin were feeding on the Government, it was their duty to hunt out and destroy them. He would not pretend to suggest the sort of resolution which should be offered. He had only intended to call the attention of the Senator from Georgia to the fact that there was a resolution reported by the committee at the last session, which had been sustained by a unanimous vote of the Senate, and he thought that such a resolution would be most desirable, if made at present.

Mr. CUTHBERT made a brief reply, which, as his back was towards the reporters, and his delivery remarkably rapid, was almost unintelligible to them. He was understood to say that, if he had felt, after the first remarks of the Senator from South Carolina, the same as he did now, he should not have risen and expressed himself so warmly as he had done. He agreed, for the most part, with what had now fallen from that gentleman. But still there was some exception which suggested itself to his mind, for he could not believe that this Republic had already arrived at that point of corruption as to present a warning example to the whole world.

Mr. SOUTHARD then rose and said that he should have made no remarks, but for the call which had been so emphatically made on the committee by the Senators from South Carolina. The object which these Senators had in view did not escape the attention of the committee.

Mr. S. was proceeding, when, at the suggestion of Mr. EWING, in consequence of the lateness of the hour, he gave way, and

The Senate adjourned.

WEDNESDAY, JANUARY 28.

ALABAMA RESOLUTIONS.

Mr. KING presented the preamble and joint resolutions of the Legislature of the State of Alabama, instructing their Senators in Congress to use their untiring efforts to cause to be expunged from the journals of the Senate the resolution of the last session relative to the removal of the public deposites from the Bank of the United States.

The resolutions having been read,

Mr. CLAY said, before any order was taken for laying these resolutions on the table, resolutions which appeared to be addressed to the Senators from Alabama, and in the nature of instructions to them what they were required by the Legislature to do, he should be glad to know, from the honorable gentleman who had presented them, whether it was his intention now, or on any future occasion, to submit a proposition to the Senate to expunge from the journal of the Senate the resolution to which those resolutions referred?

Mr. BENTON rose and recalled to the Senate the time when the resolution, to which the Alabama resolutions referred, was adopted by the Senate. He had then, in his place, given immediate notice that he should commence a series of motions for the purpose of expunging the resolutions from the journals. He had then made use of the word expunge, in contradistinction to the word repeal, or the word reverse, because it was his opinion then, and that opinion had been confirmed by all his subsequent reflection, that repeal or reversal of the resolution would not do adequate justice. To do that would require a complete expurgation of the journals. It would require that process which is denominated expunging, by which, to the present and to all future times, it would be indicated that that had been placed upon the journals which should never have gone there. He had given that notice, after serious reflection, that it might be seen that the Senate was trampling the constitution of the United States under feet; and not only that, but also the very forms, to say nothing of the substance, of all criminal justice.

He had given this notice in obedience to the dictates of his bosom, which were afterwards sustained by the decision of his head, without consultation with any other person, but after conference only with himself and his God. To a single human being he had said that he should do it, but he had not consulted with any one. In the ordinary routine of business, no one was more ready to consult with his friends, and to defer to their opinions, than he was; but there were some occasions on which he held council with no man, but took his own course, without regard to consequences. On this occasion he had counselled with no being on earth, for he had made no calculation as to consequences. It would have been a matter of entire indifference with him, had the whole Senate risen as one man, and declared a determination to give a unanimous vote against him. It would have mattered nothing. He would not have deferred to any human being. Actuated by these feelings, he had given notice of his intention in the month of May; and in obedience to that determination he had, on the last day of the session, laid his resolution on the table, in order to keep the matter alive.

This brought him to the answer to the question proposed. The presentation of the resolutions of the Legislature of Alabana afforded a fit and proper occasion to give that public notice which he had already informally and privately given to many members of the Senate. He had said that he should bring forward his resolution at the earliest convenient time. And yesterday evening, when he saw the attempt which was made to give to a proceeding emanating from the Post Office Committee, and to which, by the unanimous consent of that committee, a legislative direction had been assigned, a new form, by the two Senators from South Carolina, so as to make it a proceeding against persons, in contradistinction to the public matters imbodied in the report; when he heard these persons assailed by one of the Senators from South Carolina, in such a manner as to prevent any possibility of doubt concerning them; and when he discovered that the object of these gentlemen was impeachment in substance, if not in form, he did at once form the determination to give notice this morning of his intention to move his resolution at the earliest convenient period.

This was his answer to the question which had been proposed.

Mr. KING, of Alabama, said he was surprised to hear the question of the honorable Senator from Kentucky, as he did not expect such an inquiry: for he had supposed it was well understood by every member of the Senate what his sentiments were in regard to the right of instruction. The Legislature of Alabama had instructed him to pursue a particular course, and he should obey their instructions. With regard to the resolution to which the Legislature alluded, he could merely say that he voted against it at the time it was adopted by the Senate. His opinion as to it was then,

as well as now, perfectly understood. If the gentle man from Missouri [Mr. BENTON] declined bringing the subject forward relative to the propriety of expunging the resolution in question from the journal of the Senate, he himself should, at some proper time, do so, and also say something on the great and important question as to the right of instruction. Now, that might be admitted in its fullest extent. He held his place there, subject to the control of the Legislature of Alabama, and whenever their instructions reached him, he should be governed by them. He made this statement without entering into the consideration of the propriety or impropriety of Senators' exercising their own judgment as to the course they deemed most proper to pursue. For himself, never having doubted the right of a Legislature to instruct their Senators in Congress, he should consider himself culpable if he did not carry their wishes into effect, when properly expressed. And he had hoped there would have been no expression of the Senate at this time, as he was not disposed to enter into a discussion then, for particular reasons, which it was not necessary he should state.

As to the propriety of acting on the subject then, that would depend upon the opinions of gentlemen as to the importance, the great importance, of having the journal of the Senate freed from what many supposed to be an unconstitutional act of the Senate, although the majority of it thought otherwise. He would now say that, if no one should bring forward a proposition to get the resolution expunged, he, feeling himself bound to obey the opinions of the Legislature, should do so, and would vote for it. If no precedent was to be found for such an act of the Senate, he should most unhesitatingly vote for expunging the resolution from the journal of the Senate, in such manner as should be justified by precedent.

Mr. CLAY said the honorable member from Alabama had risen in his place, and presented to the Senate two resolutions, adopted by the Legislature of his State, instructing him and his colleague to use their untiring exertions to cause to be expunged from the journals of the Senate certain resolutions passed during the last session of Congress, on the subject of the removal of the deposites from the Bank of the United States. The resolutions of Alabama had been presented; they were accompanied by no motion to carry the intentions of that State into effect; nor were they accompanied by any intimation from the honorable Senator, who presented them, of his intention to make any proposition in relation to them to the Senate. Under these circumstances, the inquiry was made by him (Mr. C.) of the Senator from Alabama, which he thought the occasion called for. The inquiry was a very natural one, and he had learned with unfeigned surprise that the Senator did not expect it. He would now say to the Senator from Alabama, that of him, and of him alone, were these inquiries made; and with regard to the reply made by another Senator, [Mr. BENTON,] he would further say, that his relations to him were not such as to enable him to know what were that Senator's intentions, at any time, and on any subject, nor was it necessary he should know them.

He had nothing further to say, than to express the hope that the Senator from Alabama would, for the present, withdraw the resolutions he had presented, and if, after he had consulted precedents, and a careful examination of the constitution of the United States, he finds that he can, consistently with them, make any propositions for the action of the Senate, he (Mr. C.) would be willing to receive the resolutions, and pay to them all that attention and respect which the proceedings of one of the States of this Union merited. If the gentleman did not pursue that course, he should feel himself bound, by every consideration, by all the obligations which bound a public man to discharge his duty to his God, his country, and his own honor, to resist such an unconstitutional procedure as the reception of these resolutions, without the expressed wish of the Legislature of Alabama, and without any intimation from her Senators, of any proposition to be made on them, at the very threshold. He did hope that, for the present, the gentleman would withdraw these resolutions, and at a proper time present them with some substantive proposition for the consideration of the Senate. If he did not, the debate must go on, to the exclusion of the important one commenced yesterday, and which every gentleman expected to be continued to-day, as he should in such case feel it necessary to submit a motion for the Senate to decide whether, under present circumstances, the resolutions could be received.

Mr. MOORE, of Alabama, said he had not anticipated any discussion upon the presentation of the resolutions from Alabama, but, as it had so unexpectedly occurred, he would beg leave to say a word or two only.

Sir, (said Mr. M.,) my colleague might have saved himself the trouble of informing the Senate that the resolutions were not designed to influence his conduct on the subject of the expunging resolution; his willingness to vote in conformity with the instructions upon this subject, he presumed, would not be doubted either here or elsewhere. Mr. M. said he was free to admit that he, in all probability, was more likely entitled to the honor of having given rise to the resolutions.

He said, in the exercise of his honest convictions of propriety upon a few of the measures upon which he had been called to act, he had been compelled to differ with his colleague, and possibly upon the vote now referred to by the resolutions. Yet that difference of opinion might be an honest one, he hoped. He, however, entertained the same views now that he did when he was called upon to vote.

Mr. M. said, as regards the right of instructions, he admitted it to the fullest extent ever practised upon or claimed by the republican doctrine or the republican party since the establishment of the Government. That right abided, however, with the sovereign people, as the legitimate source of all power. The people had the right, either through themselves or their public agents, to instruct their Senators here upon all matters of policy touching their interest. These agents, however, as they are only public servants themselves, must also act in pursuance of the will of the sovereign people. As relates to any subject involving constitutional questions, Mr. M. felt himself bound by higher and paramount obligations due to his conscience. But, sir, (said Mr. M.,) upon all questions of policy, he should be found acknowledging the right of instruction by the people, and a correspondiug obligation on the public servant to obey.

Mr. KING, of Alabama, had felt an unwillingness from the first to enter into this discussion, for reasons which would be understood by every gentleman. It was his wish, and was so understood by one or two friends whom he had consulted, that the resolutions should lie on the table for the present, until the debate on another subject was disposed of. In reply to the Senator from Kentucky he must say that he could not, situated as he was, accede to his proposition. His object certainly was to carry into effect the wishes of the Legislature of his State; and he, as well as his colleague, felt bound to obey the will of the sovereign State of Alabama, whenever made known to them. He certainly should, at a proper time, present a distinct proposition in relation to these resolutions for the consideration of the Senate; and the Senator from Kentucky could then have an opportunity of discharging "his duty to his God, to his

country, and his own honor," in a manner most consistent with his own sense of propriety.

Mr. MOORE observed that, if he was not mistaken, from a hasty perusal of the resolutions, there was not any instructions requiring him and his honorable colleague to bring forward a proposition in the shape of a resolution. But the Legislature seemed to suppose that it would be done by their Senators on this floor. He, (Mr. M.,) however, had taken the liberty of now saying that he felt no obligation to bring forward a resolution. He would submit to his colleague, if he was prepared to vote when the subject came up, whether it would not be more advisable to allow the honorable Senator from Missouri to proceed to fulfil his pledge on this subject.

Mr. CLAY would not renew the intimation of any intention on his part, to submit a motion to the Senate, if there was any probability that the Senator from Alabama would withdraw the resolutions he had submitted. He now gave notice that, if the Senator did not think fit to withdraw them, he should feel it his duty to submit a proposition which would most probably lead to a debate, and prevent the one commenced yesterday from being resumed to-day.

Mr. PRESTON said he did not propose to occupy much of the time of the Senate, and would not probably have done so at all, but for the annexion which had been made of the debate of yesterday with this subject; one of reference, not calling for any animadversion of the honorable Senator from Missouri. He would now take leave to offer a word or two by way of explanation. The honorable gentleman had stated in the course of his remarks that, on account of the suggestions of the Senator from South Carolina, yesterday, he had, in some sort, come to a conclusion earlier than he had previously calculated upon, to make the motion of which he had given notice at the last session.

It was not for him (Mr. P.) to determine what views the honorable Senator would take; but, as to his own course on this subject, he felt bound to say that he should not investigate the motives by which the gentleman was now, or should be at a subsequent time, actuated. Still he could not avoid expressing his surprise that the Senator should have been able to make the slightest connexion between the course which he (Mr. P.) had taken yesterday and any resolution which he might think proper to offer now, or on any other occasion. What was the course taken yesterday?

Upon the reading of the minority report made by the Senator from Tennessee, [Mr. GRUNDY,] who entertained a personal friendship for the Postmaster General, and whose party connexions, they all knew full well, would lead him strongly to take (and naturally, unquestionably,) the most favorable view of the subject-matter intrusted to his investigation, some discussion took place. Upon that report there would be but one opinion. And from that report, so far as he was able to hear it, it was inferrible, by the whole Senate, that the gentlemen on the committee had come to conclusions upon which there could be but one opinion.

He had called on the committee to imbody, in the form of resolutions, their sentiments of the transaction; and he, for one, would not be satisfied to sit silent there and listen to a discussion upon prospective legislation, when every thing dear to us (continued Mr. P.) should induce us to come forward and make such an expression of our opinion.

The honorable Senator from Missouri had supposed that, as he (Mr. P.) was not content with referring to the organization of the Department, he required some course to be taken in regard to the persons closely connected with the Post Office Department; and, because he demanded the action of the Senate in relation to the personal conduct of persons implicated, therefore the honorable gentleman was disposed to move his resolutions. If it were true that the public officers of this Government had been guilty of malfeasance, which had induced him to demand their punishment, with all due deference to the Senator, he did not see any connexion between that demand and the proposition which he (Mr. B.) was about to offer against the Senate. Did the honorable gentleman proceed according to the spirit of the *lex talionis?* Was it entirely from a suggestion of that nature that he acted? Because he (Mr. P.) had called for an expression of the opinion of the Senate, concerning the conduct of those who had connived at these gross enormities, as to the existence of which there was no difference of opinion among honorable Senators, the honorable Senator felt himself called upon to make a movement against the Senate. Because he (Mr. P.) had pronounced the censure on those concerned in the fraudulent practices of the post offices, the honorable Senator must move his resolution against the Senate. Upon what principle, he would ask, could any connexion be created between the two subjects? Upon what principle was the censuring of an officer of a Department, which had been proved to be notoriously abandoned to corruption, to be connected with a resolution implying a censure upon certain proceedings of the Senate at the last session?

He was sure the honorable Senator from Missouri would not be willing to say, nor would he (Mr. P.) for him, that having detected a state of things connected with the Post Office Department, from which all recoiled with indignation, and having given an opinion that it should be characterized in proper terms, something also concerning the Senate required to be detected, and also characterized in proper terms. Were his lips to be closed against these misdemeanors, these glaring, atrocious, recognised, and established malfeasances in the Post Office Department, which had been admitted by the unanimous voice of the Senate, because, in the opinions of some gentlemen, the Senate itself was not wholly free from blame in reference to another and a widely different matter? He must be permitted to say, for one, that, however this body might be censured or censurable, for any of its acts, he would not hesitate to denounce impropriety wherever else he found it. And he would not permit his mouth to be closed in denouncing that insolvent Department by the honorable Senator from Missouri, or by any portion of the citizens of the United States who took part with him in denouncing the Senate. If the Senate had acted wrong, let the fact be established, and let the Senate be responsible.

The honorable gentleman was totally mistaken in supposing, from any remark he (Mr. P.) had made, that he intended to act criminally on the persons connected with these frauds, although he would not shrink from taking that course if it were necessary. But he was not one who was disposed to damn the sin, and love and cherish the sinner. He could not satisfy himself with doing no more than adopting, as a remedy for the evil, that kind of prospective legislation which was recommended. When there was every thing of national honor at stake, in consequence of the corruption or malfeasance of the Post Office, he could not be content with looking only to the future. He would not be satisfied with looking at the exterior of the wound, whilst the maggot was rioting in its rottenness. But where, he asked, was the personality in this matter? From the bottom of his heart he could say that he had no personal ill-feeling towards any individual in the Post Office Department, but he could not but sincerely and deeply lament the misconduct which had brought the Department into its present condition.

He desired to go into an examination of the matter, and if, as the Senator from Tennessee [Mr. GRUNDY] desires it to appear, it should be seen that there had only been negligence, and not malfeasance in the Department, he, for one, should be happy to adopt such a conclusion. What might be the construction of the Senator from Missouri, as to the limited legislative powers of this body, had nothing to do with the question. Had they failed in an expression of their judgment?

As to the gentlemen on the other side, had they not voted for such a resolution precisely as he had called for? The Senate, at the last session, decided unanimously that the borrowing of money, by the Postmaster General, was unconstitutional and contrary to law. He (Mr. H.) was disposed then to think that there had been malfeasance in the Department. Now, what was the resolution which the committee then offered relative to the Post Office? [Mr. P. here read the resolution of last session.] And this appeared to have passed by a unanimous vote, and every name was put upon the yeas and nays, the Senator from Missouri [Mr. BENTON] standing at the head of the list.

Was there, he would ask, any thing extraordinary in his course, or any thing which demanded a connexion of this matter with the resolution of the Senator from Missouri? The honorable Senator had given him his authority for calling for a similar resolution now, by his course on a former occasion, precisely under the like circumstances. If he (Mr. P.) went a step further, and exercised the constitutional right of this body to censure public officers when guilty of misdemeanors, could he (Mr. P.) then desire any thing more to sustain him in his purpose than the resolution which he had just read? in which the Senator from Missouri, by his vote, censured the Department in strong terms, and declared that its acts had been illegal and void! In which the Senator himself had selected the head of the Department, individuated him, and declared his conduct to be unlawful, and his acts void! He was therefore sustained by the honorable Senator, and by none more strongly.

Now, the gentleman, looking at his conduct on that occasion, could not differ with him (Mr. P.) on the present: it was impossible that he could do otherwise than support such a resolution relative to the Department, as he (Mr. P.) desired to see.

There had been a mal-administration of the office; a gross, wrong, and palpable mismanagement of it. Great blame rested somewhere. The honorable gentleman from Missouri had declared, last year, that it rested on the head of the Department. He (Mr. P.) should be glad to screen that officer, and not to hold him up to public vengeance; and it ought not to be imputed to him that he sought to denounce him, because he wished to see a different state of things from that which had been presented. But he desired to have some general expression of the Senate in regard to the Post Office. And he went on the broad and general principle, that the committee, having perfected a most laborious investigation into its affairs, it was due to them, to this body, and to the people, who ought to be enlightened on this important transaction, that there should be an expression of opinion made by the Senate. It was due to the Chief Executive of the United States that he should be informed, having the power to make an investigation and to correct the present state of things in the Post Office Department; and, therefore, he (Mr. P.) had come to the conclusion, in which he thought all would concur, that a resolution ought to be passed by the Senate. It had produced in his bosom a feeling of sincere regret, when the resolution of the last session was unanimously adopted, that the President had not thought proper to exercise his high constitutional prerogative, in the application of an effectual remedy for these evils.

He (Mr. P.) had hoped that, when a matter of this kind was brought before the Senate, it would not be characterized as an ebullition of party feeling, but would meet with the unanimous opinion of the Senate, and that this unanimous expression would have induced the President to exercise his high power in the purification of this Department of the Government. He (Mr. P.) wished it and expected it. Gentlemen misapprehended him if they supposed he intended to throw any censure on the Executive, when he made allusion to the high prerogative claimed by the President. He (Mr. P.) disclaimed any such intention. He did, however, disagree with the President entirely on the right he had asserted to the Senate. He would not put his trust in any individual in this community. He would never, by his vote, whether with open or closed doors, sanction such extraordinary executive powers as were claimed by the Chief Magistrate. There were gentlemen who differed from him widely in this respect; but he (Mr. P.) felt compelled to take issue with the President as to his claim for power, when he proclaimed to the Senate that it belonged to his department of the Government to supervise all the other executive departments, and that all the executive powers were in his hands. He (Mr. P.) denied that they were. But was it not natural and absolutely necessary, that he should desire that the Senate should again reiterate to the President of the United States their deep sense of the injuries resulting to the country from this state of things? All we could do was to illuminate the people—we could only expose the evils; we were powerless; it was for the people to act.

If there were errors, and it could not be doubted there were, they ought to be corrected. When evils existed, they ought to be exposed to view. The Senate, then, must interfere in some way or other to correct them.

Now, he was satisfied there was not a single gentleman present (not taking into account the coloring which had been given to the transaction) but what must admit there had been malfeasance in the Department. If there was any individual there to whom these frauds and corruption were chargeable, let him be brought out and held up to the community as a branded criminal. He (Mr. P.) thought, if the resolution could be unanimously passed, marking the mal-administration of the office with the censure which it merited, that a corrective would be applied by the President—that a general "clearing out" would be the consequence.

Now, it was said that this was a "party question." A party question! They all knew the effect of an application of this term. The honorable Senator from Missouri, and those who acted with him, were under the persuasion that the Senate had indulged in party feeling when they passed the resolution, which was considered by some gentlemen very obnoxious—that it had done an act which, in their opinion, should be burnt out of the records of this body, for the purpose of their expurgation.

He would not pause to look into the policy of such an act as expunging matters of record from the journals of the Senate, whenever, in the changes of parties, the acts of one party became odious to another. Nor would he even pause to inquire as to the difference in degree between the heads of the Government and a mere subaltern, with the feeling, that

"A saint in crape is twice a saint in lawn."

He indulged only those feelings which ought to actuate all honorable bosoms when he asserted that there ought to be an expression of the opinion of the Senate on these atrocious malversations.

It was true, he might have stated yesterday what might be deemed unpalatable to some of the gentlemen with whom he acted but he must repeat; that we were beaten down. It was true, the party with whom he act-

ed were not yet a minority, but it was not to be concealed that the time was near when they would be, and when they, who now carried their measures, would be the weaker party. He would ask them, would it be fair and proper that every thing which they done which was disagreeable to the other side should be expunged from the records? Now he put this question, standing as he did in the majority. In his confidence in the intelligence of the people, he reposed his hopes. He believed that the party collisions of the day would pass away and leave no trace behind, and that this Government would not pass away, but that it would live long in the admiration of the universe.

Casting his eyes through the long vista before him, he could hardly conjecture the period when the principles he asserted, and the men with whom he had acted, were to be seated in power. Not less was he disposed to continue firm to these principles and coadjutors. He would struggle with them to the last, because he could never consent to relinquish the conviction that "great is truth and the truth would prevail."

Party feeling! What was to be gained by indulging party feeling on this occasion? What would avail his denunciation of the Post Office? Would it shake those who conduct the administration of the Government? Did any one expect that such power as was now held by the administration was to be shaken by these means? Could even such a damning exposure as this shake the popular opinion as to the present administration?

If there were other gentlemen who were so sanguine as to believe that an exposition of the rottenness which lay here in the administration could shake the magnificent structure of popularity on which the present Executive stands, he, at least, was not so sanguine in his expectations. They were ardent spirits (he was not one of those) who entertained the opinion that this affair of the Post Office would shake, in the slighest degree, the present power of the administration.

He did not believe, though he might be considered extravagant in the assertion, that, if the present administration were to adopt a course which would lead to corruptions of ten times deeper dye, it could shake its popularity. When it was presented to the people by the honorable member from Tennessee, as an admitted and naked fact, that one contractor had obtained $100,000 which was unaccounted for, and another $12,000, without having made any returns at all; that the flood-gates of that Department were hoisted up, and all that put themselves in the way should receive some of the droppings of the manna--if any thing could, that might shake the popularity of the administration. He must be permitted to hope that a resolution on the subject would be offered by the Senate, and he should find great pleasure in voting with the honorable Senator from Missouri, for a general expression of its opinion in regard to those matters. And he trusted, as a precedent had been found, a similar resolution having already been acted on, that this would share the same fate--be passed unanimously.

Mr. BENTON expressed the deepest regret that such was the extreme poverty of his speech, such the poorness of his ideas, as to render him incomprehensible to to those who sat near him; and if his language was so obscure as not to be comprehended by those near him, it might well be supposed so to those in a distant part of the chamber. Now, in all he had said yesterday and to-day, there was no intimatian of an intention to retaliate, nor one word of intimidation. When he saw, or thought he saw, an attempt made to bring the Senate to the action it had been brought to on a former occasion, (and having at the last session given notice of his intention to move that certain resolutions be expurgated from the journal,) he saw, or thought that he saw, a fit occasion to renew that notice. Although the resolutions of last session, to which he now referred, were adopted in the dark, there was then no darkness on his mental vision. He plainly saw at the time, that two hooks were thrown out, in order to hang those of his party who did not agree with the majority of the Senate. If we voted, said Mr. B., one way, they were to have us on one hook, and if we voted another way, we were to be caught on the other hook. Such, it seemed, was to be the case now. A hook is thrown out, described on that floor, to be black and deep as hell, (and which a certain party, with whom he acted, could not help applying to themselves,) by which the Senator from South Carolina thought he could apply a test, to find out those who would dare to defend the deep and black damnation of that Post Office. The Senator had no right to presume, after hearing the report of the minority, that there were any on that floor who could be detected as the defenders of the corruptions he had denounced. He should give his vote, under his obligations as a Senator, without permitting himself to be considered in any such light.

He voted at the last session on a resolution which he then held to be unconstitutional; but he voted under his obligations as a Senator, and should continue so to vote, though he might protest against the unconstitutionality of his being required to do so, unless excused by the Senate. There were ten or twelve resolutions presented, on which he should have voted, some "ay," and some "no," and in order to qualify himself to do so, (though it might seem extraordinary to the Senate,) he had gone over a document of four or five hundred pages, between their adjournment in the evening and their meeting next morning. He was ready, at the last session, to have voted on these ten or twelve resolutions; but it was because he did not intend to be hung on the hooks again, that he had given his notice of yesterday. His notice, he repeated, was not given for the purpose of retaliation, nor for the purpose of intimidating him who could not be intimidated; but for the purpose of preventing any thing like judicial proceedings in that body, without the formality of an impeachment by the House of Representatives. Such was his sole intention, and he again expressed his regret at that poverty of ideas, and obscurity of language, which prevented him from being so understood by those who sat near him. He had only intended, in what he said yesterday, to give notice that, before any judicial proceedings were had in that body, without the previous sanction of the House of Representatives, there should be heard at least one argument on their constitutionality.

On one more point he wished to be understood before he sat down. He was not to be supposed as sanctioning any thing. He did not sanction; he would not be understood by implication, or by the new aspect given to the case by the Senator from South Carolina, as sanctioning any thing, of which, it was well known, he disapproved. No: let the resolutions called for from the Committee on the Post Office, and the proposition he would submit, to expunge the resolutions of the last session, come properly before the Senate, and he would give his votes on them according to the best dictates of his own judgment. Again, he would be understood, on one other point, and that was, that, in all the situations in which he might be placed, and under all circumstances, he had but one standard by which to measure both the Post Office and the Bank of the United States.

Mr. PRESTON said, if the honorable Senator supposed, for a moment, that he intended to throw out two hooks to catch him upon, he was entirely mistaken. He had not dreamt of such a thing. If the gentleman was to be hung, he had not prepared a hook for that purpose. He had merely in view, in the observations he

had made, the Post Office affair, which had filled his mind with the deepest sensations, and his heart with the most melancholy forebodings. He would repeat that, in what he had said, he entertained not the most remote intention of creating the slightest embarrassment to the Senator from Missouri.

Mr. CALHOUN moved that the resolution be laid upon the table, to give the Senator from Alabama [Mr. KING] an opportunity to prepare a resolution to accomplish the meditated purpose of rescinding the former resolutions of the Senate. I confess, sir, (observed Mr. C.,) I feel some curiosity to see how the Senator from Alabama will reconcile such a proceeding with the free and independent existence of a Senate. I feel, sir, a great curiosity to hear how that gentleman proposes that the journals are to be kept, if such a procedure is allowed to take effect. I should like to know how he proposes to repeal a journal. By what strange process he would destroy facts, and annihilate events and things which are now the depositories of history. When he shall have satisfied my curiosity on this particular, then there is another thing I am anxious to be informed upon, and that is, what form, what strange and new plan of proceeding, will he suggest for the adoption of the Senate? I will tell him: I will show him the only resource that is left, the point to which he necessarily comes, and that is this: he will be obliged to declare, in his resolution, that the principle upon which the Senate acted was not correct; that it was a false and erroneous principle. And let me ask what was that principle, which now, it seems, is to be destroyed? The principle on which the Senate acted, the principle which that gentleman engages to overthrow, is this: "we have a right to express our opinion." He will be compelled to deny that; or, perhaps, he may take refuge from such a predicament by qualifying his subversion of this first principle of legislative freedom. And how will he qualify the denial of this principle? that is, how will he deny it, and yet apparently maintain it? He has only one resource left, and that is, to pretend that we have a right to express our opinions, but not of the President. This is the end and aim; yes, this is the inevitable consequence and result of such an extraordinary, such a monstrous procedure.

So, then, it is come to this, that the Senate has no right to express its opinion in relation to the Executive? A distinction is now set up between the President and all other officers, and the gentleman is prepared with a resolution to give effect and energy to the distinction; and now, for the first time that such a doctrine has ever been heard on the American soil, he is prepared to profess and publish, in the face of the American people, that old and worn out dogma of old and worn out nations, "the King can do no wrong!" that his officers, his ministers, are alone responsible; that we shall be permitted perhaps to utter our opinions of them; but a unanimous opinion expressed by the Senate, in relation to the President himself, is no longer suffered to exist, is no longer permitted to be given; it must be expunged from the journals.

I confess I am agitated with an intense curiosity: I wish to see with what ingenuity of artful disguise the Senate is to be reduced to the dumb legislation of Bonaparte's Senate. This very question brings on the issue. This very proposition of expunging our resolutions is the question in which the expunging of our legislative freedom and independence is to be agitated. I confess I long to see the strange extremities to which the gentleman will come. It is a question of the utmost magnitude; I am anxious to see it brought on; two Senators [Messrs. BENTON, and KING of Alabama] have pledged themselves to bring it forward. They cannot do it too soon—they cannot too soon expose the horrible reality of the condition to which our country is reduced. I hope they will make no delay; let them hasten in their course; let them lose no time in their effort to expunge the Senate, and dissolve the system of Government and constitution. Yes, I entreat them to push their deliberate purpose to a resolve. They have now given origin to a question than which none perhaps is, in its effects and tendencies, of deeper and more radical importance; it is a question more important than that of the bank, or than that of the Post Office, and I am exceedingly anxious to see how far they will carry out the doctrine they have advanced; a doctrine as enslaving and as despotic as any that is maintained by the autocrat of all the Russias. To give them an opportunity, I move to lay the resolutions on the table, and I promise them that, when they move their resolution, I will be ready to take it up.

Mr. CLAY said that the proposition to receive the resolutions was a preliminary one, and was the question to which he had at first invited the attention of the Senate. The debate, certainly, had been very irregular, and not strictly in order. He had contended, from the first, for the purpose of avoiding an interference with a debate on another subject, that the subject of the Alabama resolutions should not be agitated at that time. The Senator from Alabama having refused to withdraw these resolutions, he was compelled to a course which would, in all probability, lead to a protracted debate.

Mr. CLAY then submitted the following:

Resolved, That the resolutions of the Legislature of Alabama, presented by the Senator from that State, ought not to be acted upon by the Senate, inasmuch as they are not addressed to the Senate, nor contain any request that they be laid before the Senate; and inasmuch, also, as that which those resolutions direct should be done, cannot be done without violating the constitution of the United States.

Mr. CALHOUN here moved to lay the resolutions on the table, which motion took precedence of Mr. CLAY's, and was not debatable. He withdrew it, however, at the request of Mr. CLAYTON.

Mr. CLAYTON said it had been painful to some, to witness as he had, while these reports on the condition of the Post Office were read at the Secretary's table, the deep—the indelible disgrace of the administration and its office-hunting emissaries. But he chose not to repress the expression of his triumph over the calumnies of the pensioned press in the pay of this corrupt Department, which had in times bygone endeavored to injure him for the part he had performed in dragging these mercenaries before the public. I offered (said Mr. C.) the first resolution of inquiry into the concerns of this Department, on the 14th of December, 1830. Never, sir, shall I forget the high-sounding phrases then used by certain gentlemen on this floor, while they labored to exhaust the whole vocabulary of euloguim on this miserable Department. Never, never, sir, can I forget the slanders and falsehoods then propagated by the Post Office newspapers, which exhausted the vials of political wrath on me, as the author of the original inquiry into the frauds of those who fed them, and on my old friend from Maine, [Mr. HOLMES,] now no longer a member of this body. He was in that day, when the reign of terror had fully opened upon us, the only man on the committee of 1830 who stood by me in the fruitless effort we made to expose these frauds and to prevent their repetition. He shared with me the full measure of the vengeance of those who sought to conceal from the public gaze this fountain from the which their current ran, and he will now share with me the tardy justice which even our strongest political adversaries have been compelled this day to award us, by their reluctant admissions that all we said, was not only truly

said, but that the depth of this corruption, which we alone then ventured to denounce, was greater than our strongest language had described it.

Among the things of that day with which memory now supplies me, sir, was a speech of the honorable member from Missouri, [Mr. BENTON,] which was delivered immediately after I had (some time in February, 1831,) addressed the Senate on this very subject. He then defended this Department, denounced the inquiry in which we were engaged, and urged a Senator from Louisiana, our present minister to France, to play Cato in the American Senate, take upon himself the task of *censor morum*, and move to expunge from the journal the whole proceedings of the investigating committee. That, sir, was the origin in this body of this business of *expunging from the journal.* Now how changed is the course of the honorable member! He has just assured us that he had but one measure for the Post Office and the Bank of the United States, which he boasts has been put down. He can now see the corruption of the Post Office Department as clearly as we can, and feel it as deeply. Yet if, when he suggested it, the journal of the first proceedings on the Post Office had been *expunged*, and the Senate had thus degraded the investigation, not a syllable of these monstrous developments of fraud and falsehood in the officers of this Government would ever have been made. Still the member, as ardent against the resolution of the 27th of March last as he ever was against the Post Office inquiry, threatens us again with the expunging process. He will not learn from the past to defer in the slightest degree to the judgment of others; and now, to carry out a party triumph, he will himself assume the task of the censor, and deface our records, to disgrace the very body of which he is a member. May my eyes never witness such an act of self-degradation as that with which he threatens us. If attempted, it will make its authors supremely ridiculous. The memory of the fact that our resolution was passed will still live, and while thousands of printed copies of the journal are scattered thoughout the land which will remain untouched, the mutilation of the wretched scroll in the Secretary's office, like the vengeance of the savage on the dead carcass of his enemy, will only attest the imbecility and the folly of its authors.

Mr. BENTON observed that, if the Senator from Delaware had pursued his narrative a little farther, he should not have found it necessary again to get on his feet. The objection that he made to the resolutions of that gentleman was, that they were either a criminal inquiry into the officers of the Post Office Department, or into that of the Postmaster himself. He objected on the ground that the charges contained in these resolutions were proper subjects for impeachment by the House of Representatives, the grand inquest of the nation. Now, as to whether he had two measures, one for the Post Office and the other for the Bank of the United States, let it be recollected that, during the eight years he had been lifting up his voice against the latter institution, he had never had a committee to investigate charges against it. There were periods of that time when a committee could not have been granted him for such purpose, even on parliamentary principles. He had never asked for a committee, because the House of Representatives, as the grand inquest of the nation, was the only impeaching power known to the constitution. Such was the reason why he had never asked for a committee, and never would, till driven to it by the course of the Senate. An objection had been raised to the resolutions of Alabama by the Senator from South Carolina and the Senator from Delaware, to which he would briefly reply. Need he refer those gentlemen to the course of their own reading? he would refer them to the case in a State contiguous to South Carolina, where certain proceedings of its Legislature were publicly burnt. Need he refer them to the case of Wilkes? where the British House of Commons expunged certain proceedings from their journal; expunged, not by the childish operation of sending out for every copy of the journal for the purpose of cutting out a leaf, but by a more effectual process. He would describe the *modus operandi*. There was a total suspension of the business of the House, and the clerk, taking the official journal, the original record of its proceedings, and reading the clause to be expunged, obliterated it, word after word, not by making a Saint Andrew's cross over the clause, as is sometimes done in old accounts, but by completely blotting out every letter.

Sir, said Mr. B., there is no system of tactics which can divert me from my course with regard to these proceedings of the last session referred to in the Alabama resolutions. He should move upon them with the certainty of a steam engine, and no system of tactics could prevent him from pursuing the course pointed out in the notice he had given yesterday. What he then said was in reference to the Senator from South Carolina who sat nearest him, [Mr. CALHOUN,] and in the remarks he made afterwards he would now explain that he ought not to have left out his colleague, [Mr. PRESTON.] The gentleman to whom he referred looked to a judicial procedure on that floor, and applied a test by which he could see what Senator would rise in his place and defend the enormous corruptions of the Post Office Department. It was to this he referred, and this had occasioned the notice he had given, with the remarks which had accompanied it.

Mr. CALHOUN denied that he was actuated by the motives or feelings attributed to him by the Senator from Missouri. He had but one simple object in view, and it was this: that he thought it due to the American people, in consequence of the extraordinary disclosures which had been made yesterday, in the voluminous reports in relation to the Post Office Department, and which not one man in a hundred had leisure to read, that this body ought to give their sentiments on it, in order to show that they had still some independence left; and that the vote ought to be a unanimous one, so that the citizens of this country would be then enabled rightly to judge what was the real condition of that Department of the Government. He regretted to say that it was sustained by the Chief Executive. The Senator from Missouri had said he would have the same measure for the Post Office and the bank. He had succeeded in enlisting the President against the bank; he would do well now to enlist him against the Post Office. The responsibility of the Post Office was with the President; and that of the bank with Congress. The President interfered between Senators and their duty, and he had done nothing in a most atrocious case towards arresting evils, where he might, had he been disposed to exercise the power which he claimed, of supervision over all the departments of the Government. Mr. C. moved to lay the resolution on the table.

The motion was agreed to.

Mr. CLAY gave notice that he should prepare a resolution on this subject.

Mr. KING, of Alabama, moved that the resolutions be printed.

Mr. CALHOUN said he hoped they would not be printed.

Mr. KING, of Alabama, in reply, said that when the proper time arrived—and he should use his own time on his own responsibility—he would bring forward the resolution, of which the Senator from Missouri had given notice, if not prevented by the previous action of that gentleman. He had no doubt of the power of the Senate to repeal any resolution it had adopted. What! re-

peal facts? asked the Senator from South Carolina. He would ask that gentleman if they had it not in their power to retrace their steps when they have done wrong? If they had it not in their power to correct their own journal when asserting what was not true? The democratic party of the country had spoken, pronounced judgment upon the facts stated in that journal. They had declared that these facts were not true; that the condemnation pronounced against the Chief Magistrate for having violated the constitution of the United States, was not true, and it was high time that it was stricken from the journal it disgraced. He had hoped, with the Senator from South Carolina, [Mr. CALHOUN,] that they should have but little more to do with party politics; but, after what he had heard from that gentleman yesterday and to-day, he did not now expect to see him freed from party spirit. Did that gentleman venture to pronounce upon the conduct of the Legislature of Alabama, when he asked how these resolutions had been gotten up? The resolutions, he would reply, were got up in a spirit which he trusted would ever prevail among the democracy of the country. He did not expect, at the time he presented these resolutions, that they would have caused this debate. He had not come there prepared for any discussion, though other gentlemen might have come prepared in consequence of the debate of yesterday. What was witnessed then? Why, the reading of the reports of the Post Office Committee was hardly over, and before gentlemen could possibly understand them, than they entered at once into the debate, and denounced the Chief Magistrate, the Postmaster General, and the officers of the Post Office Department, with a rapidity and zeal little compatible with justice, or the proper discharge of legislative business. The President had been highly censured for not dismissing officers charged with highly criminal conduct, before he could possibly have any opportunity of seeing the testimony against them. Let the Chief Magistrate have an opportunity of examining the charges against these officers, together with the testimony by which they were supported, and he (Mr. K.) ventured to assert that, if they should be found guilty of criminal conduct, they would be promptly punished either by dismissal or otherwise.

Mr. CALHOUN observed that the Senator from Alabama having made some personal allusions to him, he felt bound to notice them, although not at all disposed to intrude upon the patience of the Senate.

The Senator had said that he (Mr. C.) was truly connected with party. Now, if by "party" the gentleman meant that he was enlisted in any political scheme, that he desired to promote the success of any party, or was anxious to see any particular man elevated to the Chief Magistracy, he did him great injustice. It was a long time since he (Mr. C.) had taken any active part in the political affairs of the country. The Senator need only to have looked back to his vote for the last eight years to have been satisfied that he (Mr. C.) had voluntarily put himself in the very small minority to which he belonged, and that he had done this to serve the gallant and patriotic State of South Carolina. Would the gentleman say that he did not step forward in defence of South Carolina, in the great and magnanimous stand which she took in defence of her rights? Now, he wished the Senator to understand him, that he had put himself in a minority of at least one to a hundred; that he had incurred a degree of odium, voluntarily, knowingly, believing it to be his duty to do so, as there was no other means of arresting this course of executive encroachment. He had made these sacrifices for his State, and his constituents had benefited by his course; and yet the gentleman charged him with being actuated by party feeling. He was not. The situation in which he stood was of his own seeking, and from which no benefit could accrue to him or his. And he would ask, did the gentleman think him so humble an individual that he would associate himself in any form distinct from his principles, there or elsewhere? The Senator knew him too well—he knew better. If that was the gentleman's meaning of "party," he had done him (Mr. C.) great injustice—an injustice which he could scarcely overlook. If the Senator meant, by "party," that his (Mr. C's) lips were to be closed, sealed there, then he was wrong in doing so, although he might think the Chief Magistrate's conduct censurable. He denied that he was a party man.

He was in that Senate with reluctance. He came there from the State which gave him birth, though he certainly did not desire it, and had been elected to his seat almost unanimously. It was a burden to him, because imposed upon him. The honorable Senator then declared that, so long as he saw corruption, he cared not what quarter it came from, he would expose it. This was a most extraordinary state of things to exist in a free country. Such an exposure was calculated to disgrace it to a great extent. His colleague and himself both entertained the opinion that this important subject ought to be brought most fully before the people, and in such a form as would put them in possession of the opinions of that body as to the character of the report. What was the condition of things, as regarded political matters? There were some who lived entirely with or stuck to one party, right or wrong; who supported those who acted with or against the constitution, for or against the liberties of the country. It belonged to them (he meant not to be personal) to choose their party.

He had abandoned party voluntarily, freely; and he would tell every Senator—for he was constrained to speak of himself, and therefore he should speak boldly—he would not turn upon his heel for the administration of the affairs of this Government. He believed that such was the hold which corruption had obtained in this Government, that any man who should undertake to reform it would not be sustained.

He believed that a deep political disorder existed, not only in the Post Office, but in the Land, Indian, and other Departments of the Government, to a greater or less extent, and which were not to be cured by the presidential election. He would say boldly, in his place there, that the time had arrived when reformation or revolution must go on.

He stood there as one of the representatives of the State of South Carolina, or rather as her delegate, for important objects; and, so long as he continued to have the honor of a seat on that floor, he would do his duty. He believed the affairs of this country to be in a desperate condition, and that it behooved every man to lay aside party feeling, and with heart and soul exert himself to arrest the growing evils. If he had said any thing which appeared to be personal to the honorable Senator from Alabama, he begged him to accept his apology, as he had not intended the slightest disrespect to him.

Mr. SMITH then, with a view to close a discussion which would be more appropriate to another subject, moved to lay the motion to print on the table.

Mr. HILL asked for the ayes and noes; which were ordered, and stood as follows:

YEAS—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster—27.

NAYS—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Moore, Morris, Preston, Robinson, Shepley, Tallmadge, Tipton, White, Wright—20.

POST OFFICE REPORTS.

The Senate proceeded to the consideration of the reports made by the Committee on the Post Office and Post Roads.

Mr. GRUNDY renewed his motion to print 2,500 copies of the report and documents, and 5,000 copies of the report alone.

Mr. CLAYTON moved to print 5,000 of the report alone, and 5,000 of the report and documents.

Mr. GRUNDY said that, as chairman of the committee, and their organ, he had no power to make any change in the motion he had been instructed to make. He, however, should make no objection to the larger number, if that was more agreeable to the Senate.

Mr. EWING also rose and stated that he should make no objection to the larger number.

Mr. LEIGH said he should be willing to vote for the largest number, with the documents, or he should be willing to reduce the number of copies of the reports, without the documents, to the smallest number: though he would rather see the reports printed together with the documents. He had listened attentively to the reading of the reports, and it struck him at the time that the two branches of the committee did differ about matters of fact, and sometimes widely. On one point, the honorable chairman, in a private conversation afterwards with him, corrected him; but still, notwithstanding the great confidence he had in the information given him by the gentleman, yet he (Mr. L.) apprehended he was right, for he could not so far be mistaken in the import of the language, as to suppose there was no discrepancy as to matters of fact between the majority and the minority. The truth would be found, then, that there was a difference in the positive statement of facts, which, but for the information of the Senator from Tennessee, he should have now believed was so, or that there was a difference in the inferences from facts on the same evidence on which both committees reported. He was positive that there was a wide difference, as to the facts, between them. Now, for the life of him, he could not determine which of the inferences was correct—that drawn by the majority, or that by the minority. It was impossible to determine the question. Well, then, it would be impossible for the public to judge as to the correctness of facts, without examining the evidence; therefore, he thought the documents should accompany the reports. He would move that 10,000 copies, with the documents, be printed.

Mr. GRUNDY said that what he meant to convey by any remark of his to the Senator from Virginia was, that there was not so great a difference as he might imagine, on the whole. He would not believe, though he thought the minority committee did not take the same course in their examination, to ascertain facts, as the majority, that there could be much difference between them. The minority report touched some subjects which the majority did not, and the statement of facts of the majority were more ample. Both reports, he thought, had better go out together, as they would correct each other.

Mr. WEBSTER was inclined to think that the documents had better accompany the reports, and that 20,000 copies should be printed. He thought it was the general wish of the country that a large number should be stricken off. He moved to strike out all after the word "resolved," and to insert "that 20,000 of the reports and documents be printed."

Mr. CALHOUN concurred entirely in the views of the Senator from Virginia, and in the proposition of the Senator from Massachusetts, that 20,000 would not be too many.

Mr. HILL wished to ask the honorable chairman of the minority committee, whether it was admitted that $100,000 had been squandered by the Post Office on one contractor, and $12,000 on another, as stated by the Senator from South Carolina.

Mr. GRUNDY supposed it was so stated, and that was the opinion of the majority. He (Mr. G.) had never made any calculation to see whether it was so or not; large sums had been overpaid, but he thought the majority were under a mistake. Some contractors had received more than they were entitled to; and the minority had gone further than the majority on this point, having recommended reprisals, that the overpayments should be deducted from the sums becoming due.

Mr. PORTER said he hoped the Senator from New Hampshire was satisfied with the answer of the chairman of the committee. There could be no doubt that money had been advanced contrary to law, and on that subject the honorable chairman had even gone further than the majority of the committee.

He (Mr. P.) had formerly been in the habit of voting for large numbers of copies. But he believed that, if the Senate adopted the proposition to print 20,000 copies, they would not be ready for circulation before October next. He thought that the public would be put in possession of sufficient information by the publication of the debates and other matters, that it would be unnecessary to print so many copies. He was of opinion that 2,000 or 2,500 would be sufficient.

Mr. LEIGH moved that 10,000, with the documents, be printed.

Mr. HILL thought it unnecessary to print so many copies. It was a useless expense, and ought not to be incurred.

Mr. EWING said that he attended with some care to the report of the minority, but he was unable to make up a positive opinion as to whether the two reports differed in facts. His impression was, that they did differ more materially than he had expected. In his conversations with the chairman of the committee, there had not appeared to be any great difference of opinion; and he did originally believe that there was no great difference in the reports. He might have been mistaken. The order of examination of the two branches of the committee was different. The minority, in its course of proceeding, completely reversed the order of the majority. Their process being so different—being, indeed, as different as possible—the facts might be the same in both, although the different form in which they were presented, might perplex the ear. He could not say that there was, or was not, a discrepancy between the two papers; but he believed that any person reading the two papers would come to different conclusions on many points from those formed in the reports, according to the manner in which he examined the premises. He was, therefore, disposed to yield the opinion which he had originally entertained, that it would be well to circulate some of the reports without the evidence. Since he had seen the report of the minority, he was induced to surrender that opinion, and to agree only to send the reports abroad, accompanied by the testimony. He therefore wished that the chairman of the committee would coincide with him in the propriety of sending out the reports and documents together, that the people might have an opportunity of comparing the two reports with the evidence, and forming their own conclusions.

Mr. GRUNDY stated that he had no objection to furnish to the people every possible means of informing themselves on the subject, and correcting any errors in the reports, whether they were the errors of the majority or of the minority. Therefore, he could make no objection on that score. It was their duty to place the facts before the people. Even had the committee been unanimous, the people ought to have had all the

information; and it was more especially proper in the present case, where there had been a difference in the views of the committee. His only objection was to the magnitude and number. He had no objection to every thing which was useful being printed; every thing that could be read. He supposed he might say that this matter would make two respectable volumes in bulk, to say nothing of the respectability of the contents. He thought that 10,000, with the documents, would be sufficient, and he could not vote for more.

Mr. HILL said that, however pure might have been the motives of the committee, it was not to be denied that they went into this examination with a predisposition to condemn the Department.

Mr. MANGUM called the Senator from New Hampshire to order, and proceeded to take down the words.

Mr. EWING then expressed a hope that the Senator from North Carolina would not proceed on the point of order. No one would feel hurt by any remark which could fall from the Senator from New Hampshire.

Mr. HILL said he thought he was not out of order. He conceived he had a right to state that, according to what he had heard, partial evidence had been taken with an *ex parte* view. It was said that this was only a one-sided case. Testimony had been taken in the dark—in secret; and the persons implicated had not had fair play in their examination, and the people of the United States ought to know this, and say whether or not that was a proper proceeding.

Mr. MANGUM said that this was a very important matter, and was of more immediate interest to the people than any other that could come before Congress; and he was inclined to vote for the highest number, but he should be unwilling to do that unless the reports were accompanied by the documents. Every Senator there knew that the virulence and prejudice of parties would operate against a mere statement of facts, and they would obtain no credence were they not supported by the testimony on which they were founded. And what Department of the Government, he should like to know, was of such deep and vital interest to the community as that of the Post Office? It was only by sending the evidence abroad that facts were to be brought out, and light thrown on this subject. He should be unwilling to vote for an extraordinary number of copies, did he not know that they might be usefully distributed.

That three or four only should be found in every county of each State, was not sufficient, he was sure. And it was not to be expected that the great mass of politicians who were contending for office would bring all these facts to the notice of the public in their addresses to them.

He had heard very little of the report read, but that portion of it which he did hear developed facts most disgraceful to that portion of the Government. Last spring the Senate had ordered 30,000 copies of the report on the Post Office to be printed, and it had tended more to awaken the people to the true condition of things than any thing which had occurred for the last ten years. He thought differently from the Senator from South Carolina, who insisted that "we were beaten." On the contrary, he believed that victory would yet be theirs, if they did their duty; and, with the help of God, he (Mr. M.) meant to do it. To suppose that the people would not shortly perceive the corruption that was going on in this Government, was to insinuate that they were incapable of self government. They were, however, unfortunately entranced; but they would ere long awaken from that profound sleep in which they were wrapped, and shake off that incubus that now pressed so heavily upon them. He would not admit that the people were unfit for free Government; he thought another campaign would show those who now looked to the succession in power, that the exposition now made of the present state of affairs would produce a powerful result upon the people, and those who are now the successful party would then be beaten, horse, foot, and dragoons. He trusted in God that he should do his duty. If he could turn but a pebble, it should be turned with a good heart and a patriotic purpose.

He knew not specifically the character of the developments which were made in this report, but he understood they were more enormous even than those contained in the report made last summer. He should vote for the proposition of the gentleman from Massachusetts. And, when he (Mr. M.) had heard that every species of virulence had been resorted to out of doors, to throw discredit on the report, and calumniate the committee, he trusted his friend from Louisiana would consider the importance of the matter, and retract his opposition.

Mr. PORTER said that, since he was last up, he had spoken on the subject to the printer, who had assured him he could deliver the whole 20,000 copies to the Senate by that day month. He should therefore vote for the largest number.

Mr. HILL repeated what he had before said, and added, that he had heard, out of doors, that all the examinations taken by the committee had not been taken openly. It was not known when the meetings of the committee from day to day were to be held.

Mr. CLAYTON. Doubtless there was no bell rung.

Mr. EWING said that it was sufficient to say, in answer to the charge made by the Senator from New Hampshire against the committee, that it was untrue. The sittings of the committee were not secret, nor was any of the testimony taken in secret; and he defied the Senator from New Hampshire to adduce any proof in support of his allegation.

Mr. GRUNDY explained, that he was quite satisfied the committee had acted with the most correct motives, and had obtained the evidence in the best way they could. And, with regard to the relatives of the Senator from New Hampshire, he imagined nothing was said against them by any one. The evidence obtained respecting their transactions was quite satisfactory. He would vote for 10,000 copies.

Mr. HILL then asked for the yeas and nays on the question, and they were ordered.

The question was then taken on the motion of Mr. WEBSTER, and decided in the affirmative, as follows:

YEAS—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, Knight, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Robbins, Robinson, Silsbee, Smith, Southard, Tomlinson, Waggaman, Webster—24.

NAYS—Messrs. Benton, Black, Brown, Buchanan, Cuthbert, Grundy, Hendricks, Hill, Kane, King of Ala., King of Geo., Leigh, Linn, McKean, Morris, Preston, Shepley, Tallmadge, Tipton, Tyler, White, Wright—22.

FRENCH SPOLIATIONS.

On motion of Mr. WEBSTER, the Senate then proceeded to consider the bill making indemnity for French spoliations prior to 1800.

The yeas and nays being ordered on the engrossment of the bill,

The question was taken, and decided in the affirmative, as follows:

YEAS—Messrs. Bell, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, Knight, McKean, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Shepley, Silsbee, Smith, Southard, Swift, Tomlinson, Waggaman, Webster—25.

NAYS—Messrs. Benton, Bibb, Black, Brown, Calhoun, Cuthbert, Grundy, Hendricks, Hill, Kane, King

of Alabama, King of Georgia, Leigh, Linn, Mangum, Morris, Robinson, Tallmadge, Tyler, White, Wright—21.

Mr. CLAYTON gave notice that he should to-morrow, at one o'clock, move the Senate to proceed to the consideration of executive business.

The Senate then adjourned.

THURSDAY, JANUARY 29.

REMISSION OF DUTIES.

Mr. WEBSTER, from the Committee on Finance, said that that committee had been charged with several petitions for the remission of duties on articles imported by the petitioners; and he was directed by the committee to move that they be discharged from the further consideration of these petitions, and to move a resolution which would bring the subject before the Senate at its next session. He would explain the case of these petitioners in a few words. By the act of the 14th of July, 1832, it was provided that, on certain articles imported into the United States, then subject to heavy duties, there should be a great reduction of duties; such reduction to commence on the 4th of March, 1833. The most material of these articles were usually called plains, kerseys, and Kendal cottons.

As these articles, therefore, were to be admitted into the United States after March, 1833, at very reduced duties, orders were sent out by our merchants for large importations of them. But, before these orders could be answered, Congress, by another act, viz: of the 2d of March, 1833, repealed the act of July, 1832, and re-established the duties as they existed before the passage of the last-mentioned act, to the great loss of those who had ordered importations. There were some other articles embraced in these laws, one of which was the leaf tobacco of the island of Cuba. The Committee on Finance had had this subject under consideration, and had come to the conclusion that relief ought to be granted to the petitioners, and had had some communication with the Treasury Department on the subject. But the Department had no power to make a report in time to be acted on at this session. The committee, therefore, had instructed him to move that they be discharged from the further consideration of the petitions of Benjamin Allen & Co. and of Zachariah Jellison and others, and to submit the following resolution:

Resolved, That the Secretary of the Treasury cause to be ascertained the amount of duties assessed and paid on plains, kerseys, and Kendal cottons, imported into the United States, which were ordered after the passage of the act of the 14th of July, 1832, and before the passage of the act of the 2d day of March, 1833; and that he lay the amount thereof before the Senate at the next session of Congress.

This resolution was then, on motion of Mr. W., considered by unanimous consent, and adopted.

FORTIFICATIONS.

Mr. BENTON submitted the following resolution, the consideration of which he moved at this time:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of increasing the appropriation for arming the fortifications of the United States.

Mr. POINDEXTER thought the resolution should go to the Committee on Finance.

Mr. WEBSTER said he thought the direction designed for it was the most proper one. The Finance Committee, of course, were to look after the means, but he thought it belonged to the Military Committee to inquire into the necessity of making the appropriation. He (Mr. W.) thought it of the most pressing necessity that the appropriations for these objects should be increased.

The resolution was then adopted.

DEATH OF WARREN R. DAVIS.

At this moment a message was received from the House of Representatives, by Mr. Franklin, their Clerk, announcing the death of the honorable WARREN R. DAVIS, a member of that House from the State of South Carolina, and informing the Senate that the funeral would take place, from the hall of the House of Representatives, to-morrow, at twelve o'clock.

The message having been taken up for consideration,

Mr. CALHOUN rose and said that, in rising to move the ordinary resolution on this melancholy occasion, he felt it to be due to his own feelings, as well as to the memory of the deceased, to make a few preliminary observations commemorative of his many excellent qualities. I knew the deceased (said Mr. C.) long and intimately. He was my near neighbor and personal and political friend; and we stood closely connected by ties of affinity and the strictest friendship; and I cannot but say that, in passing through life, I have rarely known an individual more richly endowed. His intellect was of the highest order, clear, rapid, and comprehensive. Combined with a wonderful facility of expressing and illustrating his ideas, both in conversation and in debate, he possessed a rich imagination, a pure and delicate taste, a gentle and sportive wit, and an uninterrupted flow of good humor, that made him the delight of every circle in which he mingled. Nor were his moral qualities less deserving of respect and admiration. He was generous, brave, patriotic, independent, and disinterested almost to a fault. For the truth of this picture, that it is not the exaggerated effusion of friendship, perhaps I can appeal to many a hearer around me who knew him well. Such was WARREN RANSOM DAVIS. He is now no more. He departed this life at 7 o'clock this morning. I witnessed the departing scene. When my most excellent friend, the Senator from Missouri, [Doctor LINN,] announced to him his approaching fate, though the sad event was unexpected to him, he received the information with fortitude and firmness, while he thanked him for his kind attentions. All his desire was that he might depart in peace. His wishes were acceded to. This communication to him was made immediately after the adjournment of the Senate yesterday; at one o'clock in the morning he fell into a gentle slumber, from which he never awoke. He departed without a struggle or a groan, lost for ever to his friends and his country.

Mr. C. then offered the following resolution, which was read, and unanimously adopted:

Resolved, That the Senate will attend the funeral of the honorable WARREN R. DAVIS, late a member of the House of Representatives from the State of South Carolina, at the hour of 12 o'clock to-morrow, and, as a testimony of respect for the memory of the deceased, they will go into mourning by wearing crape round the left arm for thirty days.

On motion of Mr. PRESTON, as a further mark of respect to the memory of the deceased,

The Senate then adjourned.

FRIDAY, JANUARY 30.

The Senate met at the usual hour, and the Clerk having made some progress in reading over the journal of yesterday,

Mr. WEBSTER rose and said he hoped the reading of the journal would be dispensed with, and that some gentleman would make a motion as to when they should meet again.

Mr. POINDEXTER then moved that, when the Senate adjourn, it do so to meet again at two o'clock to-day, when any Senator might submit a motion to adjourn over to Monday.

Mr. WEBSTER said that was not the usual course.

Mr. MANGUM moved that, when the Senate adjourn, it adjourn to meet again on Monday.

Mr. POINDEXTER thought that they had arrived at the period of the session when they ought to begin to do the business before them. There were many bills from the House of Representatives, as well as many of a less important character originating here, and now on the table, not acted upon. The practice of adjourning over from Friday to Monday was usually continued for the greater part of the session, and he thought it was now time to begin to sit on Saturday. For himself, he was in favor of meeting to-morrow.

Mr. WRIGHT preferred Monday.

Mr. SILSBEE said that the committee of which he was a member had a great deal of business before it that occupied their close attention night and day. If they were allowed to-morrow to despatch some of it, they might be able to report at an early day. For the reason which he had given, he hoped the Senate would adjourn over to Monday.

On motion of Mr. LEIGH,

The Senate adjourned accordingly over to Monday next.

MONDAY, FEBRUARY 2.

Mr. CALHOUN rose and requested the Secretary to read the paragraph from a newspaper which he sent to the table. The Secretary then read from the Globe of Saturday the following paragraph:

"Whether Lawrence has caught, in his visits to the Capitol, the mania which has prevailed during the two last sessions in the Senate; whether he has become infatuated with the chimeras which have troubled the brains of the disappointed and ambitious orators who have depicted the President as a Cæsar who ought to have a Brutus—as a Cromwell—a Nero—a Tiberius—we know not. If no secret conspiracy has prompted the perpetration of the horrid deed, we think it not improbable that some delusion of intellect has grown out of his visits to the Capitol; and that, hearing despotism and every horrible mischief threatened to the Republic, and revolution and all its train of calamities imputed as the necessary consequence of the President's measures, it may be that the infatuated man fancied he had reasons to become his country's avenger. If he had heard and *believed* Mr. CALHOUN's speech the day before yesterday, he would have found in it ample justification of his attempt on one who was represented as the cause of the most dreadful calamities to the nation, as one who made perfect rottenness and corruption to pervade the vitals of the Government, insomuch that it was scarcely worth preserving, if it were possible."

Mr. CALHOUN rose to make a few remarks, not so much in reference to himself, for that was of little importance, as on the political bearing of the paragraph from the official Government paper, which had just been read to the Senate. There were some things, which, taken in themselves, were of so little importance as not to be entitled to notice, but which, standing in connexion with other matters, were frequently of great importance, and demanded attention. Whatever might be the character of the paper (the Globe) from which the paragraph just read had been taken; however low, however degraded its character might be, it was yet known to be the organ of the executive will; and that it was sustained, pampered by, and dependent upon, that branch of the Government; and in commenting on a paragraph like the present, in which the Executive was personally concerned, it was not an unfair presumption to conclude that it had had his sanction, had been authorized by him. To pass over the personal insinuations, which, as he had observed, were unworthy of notice, he (Mr. C.) would say a few words on the new political principle set forth in the paragraph. It was impossible to read the article, and not see that it went on the ground, that whosoever condemns what he believes conscientiously to be the abuses and corruptions of this Government, was to be held up in the light of an instigator of assassination; and, that no uncertainty on this point might be left on the mind of the reader, the article referred to a particular transaction in which he (Mr. C.) was personally concerned. He would not condescend to defend himself in relation to the matters contained in the paragraph that had been read; they needed no defence. What were the facts? The Senate were in debate on the Post Office reports. The Post Office, it was acknowledged on all hands, stood convicted of enormous abuses, not to say corruptions. He had risen, in his place, to comment generally on the abuses thus exhibited; he had made no personal allusions whatsoever. He spoke of the corruptions of the times, and of them mainly; though this he did say, that the evil was not so much to be attributed to any defect in the working of the machinery as in the administration itself. Yet these general denunciations, in these broad terms, are asserted by the Government official here, as warranting an individual to make this attempt at assassination. Could he have wantonly said that which would have authorized assassination, he would be little better than an assassin. What! to hold up abuses to instigate assassination! To what was the authority of this body reduced, or attempted to be reduced? According to the new doctrines, the Senate was to look silently on when these corruptions and abuses were passing beneath their eyes, because, forsooth, they might ultimately be called on to express their opinions in their judicial character.

This body, then, dare not express opinions, and, if they do express them, they may be called on to expunge their recorded sentiments from the journal of the Senate. Then, what next? No individual Senator is to be permitted to express any opinion as to a particular individual, lest he be held up to the world as the instigator of assassination! General denunciations of misconduct, corruptions or abuses, were to be held up as indicating assassination! Could they mistake the tendency of this? Did they not see, clearly as the light of heaven, the march to irresponsible power? Did it not confirm what he (Mr. C.) observed but the other day, that a stage had been reached in our political affairs that must result in reformation or revolution? He saw around him, in the ranks of the administration, many old friends and acquaintances, whose patriotism and whose attachment to the institutions of their country could not be mistaken. He asked them to look, to see what we are come to, to see what was the melancholy result of this state of things. The degradation of parties, and the consequent growth of an irresponsible power. He understood the crisis to which the country had arrived. He knew the danger to be incurred by exposing abuses existing in the executive branch of the Government. He asked no favors—he was no candidate. He desired no office. He would say, as an honest, conscientious man, who loved the institutions of his country, that he would do his duty in spite of menace, come from what quarter it would, or in spite of fate.

SENATE PRINTING.

Mr. BENTON submitted the following resolution:

Resolved, That the Secretary of the Senate inquire into the state of the printing ordered to be done by the

Senate during the last and present session, and report at what time each piece of printing will be completed and delivered.

Mr. BENTON said that this motion was based on the authority of the law of 1819, which reserved to both Houses of Congress the power of getting their printing done, when it fell into arrears, by any person whom their Secretary or Chief Clerk chose to employ. He presumed that every Senator knew that the printing of the Senate had been so enormously in arrear, that much of what had been ordered to be executed during the last session had not reached their hands until they were, perhaps, on the point of leaving home again for Washington. He believed there was one book consisting of eight or nine hundred pages, and another of seven or eight hundred, which had been ordered to be printed, and they were now coming in at a time when it was impossible to make use of their contents. He would not at present ask the application of that reserved power, but merely that the Secretary of the Senate would lay before them his report relative to the amount of printing which had been ordered, and the time when it was to be completed.

The resolution was then considered and adopted.

POST OFFICE.

The resolution offered by Mr. SMITH declaratory of the sense of the Senate on the subject of the administration of the General Post Office Department, was taken up; when

Mr. CLAYTON moved that the Senate proceed to the consideration of executive business. He withdrew his motion, and

The resolution was postponed until to-morrow, and made the special order for that day.

Mr. GRUNDY then offered sundry amendments to the bill reported by the majority of the Committee on the Post Office and Post Roads, which had been prepared by the minority of the committee, and which it was intended to propose when the bill should be taken up.

On motion of Mr. GRUNDY, these amendments were ordered to be printed.

On motion of Mr. CLAYTON, the Senate then proceeded to the consideration of executive business; and, when the doors were reopened,

The Senate adjourned.

TUESDAY, FEBRUARY 3.

PURCHASE OF PAINTINGS.

Mr. PRESTON rose, agreeably to a notice which he had given yesterday, to offer a resolution concerning the purchase of certain paintings at present in this city. A Senator, not now in his seat, [Mr. WAGGAMAN,] had, a short time since, submitted this proposition to the Senate in a different form. It was referred to the Committee on the Library; but, in consequence of the pressure of other business on the members of that committee, no report had as yet been made. On reflection, he (Mr. P.) had come to the conclusion that the mode he was now about to adopt was the preferable one. He was very desirous that the American public should not lose the advantage of having these paintings in their possession. He had satisfied himself that they might be arranged very tastefully in the President's house; and that house stood much in need of ornaments of this character. When the Senate reflected on the liberality with which Congress had appropriated money for the purchase of furniture for this mansion, and that ornaments, such as he now proposed to obtain, were annually increasing in their value, and were those rare specimens of genius which would be looked to as models of imitation, he hoped that the Senate would concur with him in the propriety of making the purchase. It suggested itself to his mind that the Senate were perfectly authorized to adorn the President's house with specimens of the fine arts. Notwithstanding so much had been expended in the adorning of the rooms, there had been no additions of productions of this character. It occurred to him that such additions might be made fairly, with the sanction even of those who were generally the most squeamish in their construction of constitutional power, and he was one of these.

He moved the more readily in this matter, because no suspicion could attach to him of a motive connected with considerations of personal character. He had not been in the President's house during the last twenty years; and as it was probable that he should not go into it for twenty years to come, he might never have the opportunity of seeing the pictures there. He hoped that the same liberality would be exhibited in the purchase of these paintings which had been exhibited, on all former occasions, in furnishing the house.

He then moved a resolution on the subject; which was read, and ordered to a second reading.

The amendments of the House to the bill making an appropriation for presenting a gold medal to Col. George Croghan, and swords to the officers who served under him at the defence of Fort Sandusky, during the late war, were concurred in; and a further verbal amendment having been made, on motion of Mr. PRESTON, the bill was sent to the House of Representatives for concurrence.

The following bills from the House were severally read the first and second times, by unanimous consent, and referred:

The bill making appropriations for the civil and diplomatic expenses of the Government for the year 1835;

The bill for the relief of Thomas Bulfinch;

The joint resolution authorizing a gold medal to be made in honor of the battle of the Cowpens; and

The bill to amend the act authorizing the construction of a bridge over the Potomac.

The resolution offered some time since, directing that the new Senators be supplied with copies of Gales & Seaton's Register of Debates, being taken up for consideration, on the question of its second reading,

Mr. HILL said that, in every case in which the purchase of books was involved, he should hope that there would be an explanation. He moved that this resolution be made the special order for Tuesday next.

Mr. KING, of Georgia, suggested the propriety of laying the resolution, for the present, on the table, until the Secretary should have had an opportunity to make out the list of the sums expended in the purchase of books and printing, which was ordered by a resolution of the Senate last week. This call had been made for the purpose of obtaining information as to the amount of past expenditures on these objects, and it was essential that the Senate should be in possession of this information before there was any decision as to the propriety of adopting this resolution. He expected it would be found by this report that the extravagance of the Senate in the purchase and printing of books was equal to that of the Post Office, in its more enlarged sphere, in its expenditures. While they were charging, and, in his opinion, finding, the grossest mismanagement of the concerns of that Department, they ought to be careful that nothing took place in the Senate which would cause a similar imputation to be cast on that body.

He moved to lay the resolution, for the present, on the table; and the motion was agreed to without opposition.

JOINT RESOLUTION AS TO PUBLIC PRINTER.

The joint resolution to repeal the joint resolution of

1819, concerning the election of public printer, was read a second time.

Mr. BENTON said it was the usual practice to refer acts of this character to a committee. It was not so in every case; but it was the rule adopted in pursuance to such matters as required the examination of a committee. The force act, he believed, was not referred to a committee; at least, an objection was made to that course. The rule, therefore, was not to be regarded as imperative. There appeared to him to be nothing in this resolution which required the supervision of a committee. It might, with just as much propriety, be at once decided by the action of the Senate itself. A particular reason which operated to prevent him from submitting this resolution to the action of a committee was, that a resolution similar in its character, two years ago, was referred to a committee which was usually more active in its movements than any other committee of the Senate, yet that committee did not find time to act upon the resolution, so as to report it, until the time had gone by when the object for which it was offered could be effected. The committee did not report back the resolution until the election of a printer had taken place, which it was the design of the joint resolution to prevent. Then, indeed, it was reported, and without any alteration, even so much as the crssing of a *t*, or the dotting of an *i*.

His objection, then, to the reference of the resolution, was: 1st. Because the resolution required no supervision of a committee; and, 2dly. Because a resolution of the same kind, formerly required, was not reported to the Senate until it was too late for any benefit to be obtained from it. He was therefore opposed to a reference of the resolution to a committee.

Mr. MANGUM, in a few words, which were only partially audible, expressed a hope that the reference to a committee would be ordered, and that there would be an early report. At present, he did not find himself prepared to vote on the subject, without further inquiry. He moved to refer the resolution to the Committee on the Expenditures of the Senate.

Mr. BENTON replied that he had resumed his seat so as to give any Senator the opportunity to make a reference, if it should be considered proper, and intending himself to make no serious opposition to the motion. He was not acquainted with the committee which had been named, and he would therefore state the views which had actuated him in submitting the resolution. He regarded it as an inherent right in every Congress to elect its own officers, in the same manner as it provided its own stationary and fuel. In the next place, the joint resolution adopted in 1819 regarded the public printer as an officer of the House. He was created a public officer by law. He was an officer of very comprehensive character, and a very important one, in consequence of the great control which he was able to exercise over the debates from the mouths of Senators. Each House was competent to elect its own officers. In the first place, it was its inherent right; and, secondly, it was its constitutional right, under the law, for each successive Congress to elect its own officers. He considered the joint resolution of 1819 as already a dead letter, and fit and proper to be disregarded. But while it remained on the statute book, it might be a stumbling block to some gentlemen, and therefore he moved to strike it off, and that each Congress hereafter should elect its own officers. These were the views which operated on him to move the repeal of the resolution. He had other reasons, which he should be ready to give whenever the resolution should be taken up on its passage.

Mr. POINDEXTER suggested that one of the consequences of the passage of this resolution would be, that Congress would, at every short session, be left during the vacation of nine months without any public printer. Between the 4th March and the beginning of December there would be no public printer.

One of the questions which the States decided for themselves was that which related to the time of electing their representatives to Congress, and some of the States made their elections more than twelve months in advance. And the question with the Senate now was, whether the public printer should be elected nine months in advance, or that Congress should be left during those nine months without any public printer. In reference to the two Houses having the choice of their own officers, he would only remark that either House had the power to go into an election of a new printer, during the session, if the one already employed did not behave properly. He thought the rule as it now stood much better than would be that which must be acted on if the joint resolution was repealed. He had merely thrown out these views for the consideration of the committee.

Mr. MANGUM rose and said that he wished, on reflection, to give a different direction to the resolution than he had previously indicated. He considered the existing joint resolution as in all respects equivalent to a law. He thought, therefore, that the present resolution should go to a committee which would be competent to examine the law on the subject, and which would go into the investigation. He would, therefore, now move to refer the joint resolution to the Committee on the Judiciary. He concluded with expressing his hope that the committee would at once look into the subject, and make a report.

Mr. BENTON said he apprehended the whole object, if there was any object at all to be accomplished by referring the resolution, was for the purpose of bringing in arguments which would influence the committee, and induce it to reject the proposition. Now, he thought this was a modern conception, and one not to be found in the rules which regulated all parliamentary proceedings. The resolution contained no details--it was a single thing; and he was of opinion that there was no necessity for sending it to a committee. If, however, gentlemen wished it to go to the Judiciary Committee, then the effect would be to consign it to the tomb of the Capulets. But as to the idea of having a printer in the vacation, he held it to be an abuse growing out of the resolution which had been passed some years ago, and an abuse, too, in direct violation of the same. How, he asked, was the public printing executed prior to 1819? Why, precisely on the same principle that the fuel, stationary, &c., was supplied, under the direction of the Secretary of the Senate and Clerk of the House. The resolution had passed on the 3d of March, and the first part of it announced that it was to regulate the prices of the public printing, while the last clause provided for the immediate election of a printer. Immediately after the approval of the President was communicated, Congress elected a printer, which he presumed was done about the hour of midnight on the 3d of March. Now, what were the terms of that joint resolution? They were, that the printer should give bond to the Clerk for the prompt and accurate execution of the printing. The first word, then, was for the "prompt" execution, &c. And what, he would inquire, was the next provision? It was, "if he fail to do it promptly," &c., the Clerk of the House, or the Secretary of the Senate, was to go on as formerly, and have it done at his expense.

The idea of having a printer during vacation was, he would again repeat, a great abuse. Now, he would state what he knew to be true—that, so soon as the printer was made a permanent officer, he went to work; but he (Mr. B.) here wished to say that this expression was not intended for A. or B. Well, he went to work

in order to discover what ought to be printed; to create that kind of expense which had hitherto been wholly unknown to their parliamentary proceedings. Now, this was done in direct contravention to the terms of the resolution of 1819. Yes, the printers went to work, *eo instante*, to rummage the files of Congress, to put their imaginations to the rack, to find what they might consider necessary to be printed; the larger the document the better. And then they would persuade the members to bring in a resolution, towards the close of the session, so as to obtain them a job to occupy their presses during the vacation, and to give them great profits on it. And so successful had been this practice, that members, who had been made their innocent dupes, were perfectly astounded when they came to see what was the cost of the printing.

Now, what was the state of things at this moment? Why, the Senate had on its hands a job which cost forty-six thousand dollars, and which he believed to be not worth a straw. He would undertake to say that there was not one member of the Senate who would read one word of this document, although it had cost forty-six thousand dollars. Again: There were two other documents, one of which came in only the day before yesterday. It contained six hundred and nine pages, and most of them consisted of what was called table work; it therefore would cost, he believed, three times the price of ordinary work; but he spoke under correction. This job was ordered to be executed on the 9th of December, 1834, and it was but just laid on their tables. Now, let gentlemen inspect it, and see how much matter it contained which had not been printed before. There were the monthly statements and the weekly statements of the Bank of the United States, &c.

The other job to which he had alluded was now in the progress of delivery, and was coming in by instalments, an octavo volume at a time. It was commenced last session, and they still continued to receive instalments, octavo volume after octavo volume, none of which had been read. He would say further, none of which would be read. And he would go a little further, and say that, when read, it would be found of no use. The only purpose to which he himself could put it was to light his candles. And that was the way in which the public money was squandered.

This, too, was a part only of the abuse resulting from having a permanent officer in a public printer. Yet the Senate was now engaged in looking at other abuses elsewhere; but he trusted they would allow him to say there was no abuse connected with the Government, in which more progress had been made than that of the printing which had been done for their own body. Yes, the Senate of the United States had put on its seven-leagued boots, and strode twenty-one miles at a time along the road of extravagance. The expenditures for printing had been most enormous, and wasteful in the extreme. It would be well for the Senate that, while it was occupied in arresting abuses in other places, it should also look to its own faults, and endeavor to correct them.

It was now some days since the Secretary of the Senate had been directed to make out a statement in regard to the public printing which had been executed, the expense thereof, &c.; and they all knew his promptitude and excellence as an officer; and, although so much time had elapsed, he had not yet been able to report on the subject.

The practice of Senators furnishing themselves with books (and thus providing jobs for printers) had been carried to such an extent that they began to form a principal part of their perquisites. The Senator from Georgia [Mr. KING] had at the last session endeavored to put a stop to this extravagant course in relation to printing. He had prevented the passing of a joint resolution which was on the eve of going through without any one having an idea of the amount of the expenditure involved in it. He would be glad if the gentleman from Georgia would state the amount.

Mr. KING said that, from all the information which he had been able to collect, it would have amounted to $80,000.

Mr. BENTON said he should stop at that point.

In reply to a question, Mr. KING stated that he referred to the reprinting of the journals of the old Congress.

The motion of Mr. MANGUM was then agreed to.

FRENCH SPOLIATIONS.

The bill making appropriations to satisfy the claims of American citizens who suffered by spoliations committed on their commerce prior to the year 1800, was read the third time and passed: Yeas 25, nays 20, as follows:

YEAS—Messrs. Bell, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, Knight, McKean, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Shepley, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Webster—25.

NAYS—Messrs. Benton, Bibb, Brown, Calhoun, Cuthbert, Grundy, Hendricks, Hill, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Morris, Robinson, Tallmadge, Tyler, White, Wright—20.

LUCY BOND.

The bill for allowing interest on certain claims to the heirs of Lucy Bond and others, being under consideration,

Mr. WRIGHT said he was constrained to oppose its passage. He believed it a violation of the rules and principles established by the Senate during the last session of Congress. It was then decided that Government ought not to pay such demands, unless it was in the wrong--unless it had failed to satisfy claims which had been fully established. This subject was before the Senate at its last session. As the bill came from the House, by some means several names had been stricken from it, and its passage, at this time, would go to establish that a subsequent Congress may rightfully decide on the propriety of the acts of a preceding Congress, in relation to claims rejected by them. If, for once, this were established, what would be the condition of Congress, liable to be perpetually harassed by every claimant? Mr. W. here alluded to the bill just passed, (the spoliation bill) which had been before Congress since 1802. Are we to adopt, said Mr. W., the principle, that every preceding Congress was in the wrong, and we in the right? He was not willing to allow that any claim was due until it had been successfully prosecuted and allowed by Congress.

Mr. SMITH explained the manner in which the names had been left out, through a mistake made in the committee; and also why interest had not been allowed before.

Mr. LEIGH was glad, he said, the Senator from New York [Mr. WRIGHT] had brought the consideration of this subject before the Senate. He had no need of informing that gentleman that he fully agreed with him in the main; but he merely rose to inform him of the rules that had been adopted on this subject. [Here Mr. L. read a report made to the Senate on another subject.]

Mr. WRIGHT wished to inquire of the Senator from Connecticut, [Mr. SMITH,] whether the act of striking the names from the bill, at the last session, was done by order of the Senate, or by mistake?

[Mr. SMITH was not positive on that point.]

Mr. W. resumed: He believed this claim had been

placed on its true grounds; that we are acting on a subject which had already been rejected by one branch of the Government. Mr. W. concluded by asking the yeas and nays; which were ordered.

Mr. PRENTISS said he entertained very serious doubts whether it was consistent with sound policy to allow interest in any case against the Government, except where interest had been expressly stipulated to be paid, or the payment of interest was provided for by positive law; but, without expressing a decided opinion upon that point, or carrying the doctrine to that extent, he must say he felt himself obliged to oppose the allowance of interest in the cases embraced in the bill before the Senate.

It certainly had not been usual, nor heretofore considered wise, for the Government to pay interest on the claims allowed by Congress against it. It was to be supposed, and Mr. P. thought it was the only supposition which could be safely acted upon, that the Government was always able and ready to make payment, whenever it was ascertained that a debt existed against it. Senators who had spoken in favor of the bill admitted the general rule, but thought that the cases under discussion formed an exception to it. They insisted that the claims having been presented to Congress at a former period, and rejected, the claimants were entitled to the interest from that time. They proceeded on the principle which prevailed in cases between individuals, and considered the presentment of the claims to Congress equivalent, in its effect upon the question of interest, to a demand of payment of an individual.

It was true that, in a case between individuals, when the time stipulated for payment had elapsed, or the debtor had wrongfully refused payment, the creditor was entitled to interest by way of damages for the detention of the debt. This was a general principle, which prevailed both in equity and at law, and was founded in reason and justice. It applied where the debtor had neglected or refused to pay the debt, after it had become his duty to pay it. But, to make a principle existing in a case between individuals applicable in a case against the Government, there should be a strict analogy between the two cases. It was in the want of this analogy that the fallacy of the argument which has been urged in favor of the bill lay plainly and distinctly visible. Mr. P. said he would endeavor to indicate the points of difference between the cases, and notice the particulars in which, in his opinion, the analogy failed.

An individual was bound to know his creditor, and the extent of the obligation he had imposed upon himself. When the debt had become due by the terms of the contract, and especially if payment was afterwards demanded, it was his duty to pay the debt. If he disputed the existence of the debt, his neglect or refusal to pay it was at the peril of being liable for interest, if it turned out on trial, in a court of justice, that the debt was due. If the debt was established, interest would follow as an incident to the principal, and the debtor could not excuse himself from it by alleging that he refused payment under a belief that he did not owe the debt.

But the Government could not be supposed to know the particular claims which might exist against it, or the merits of such claims; nor was an application to it for payment notice by which it would be bound, as an application for payment would bind an individual. The Government was administered by agents of the people, exercising the power of the people, and acting for the people. They were mere trustees, having a naked authority uncoupled with any interest. Though the Government, in a political sense, was always the same, the agents or trustees, of which it was composed, were continually changing, and the policy and principles upon which it acted would of course vary, more or less, from time to time. No one would contend that, when a claim was presented against the Government, it was to be paid without examination. If Congress were to examine into the merits of the claim, it must, of course, judge of the validity of the claim; and, until it had admitted the claim, or decided in favor of its validity, the claim could not be considered an existing debt, for the purpose of carrying interest, or for any other purpose. No claim could be said to assume the nature and character of a debt against the Government, until it had been established to the satisfaction of Congress, and had been expressly recognised as existing.

Congress having the right, and it being its duty to judge, its decision settled the character of the claim. How the rejection of a claim, which denied its existence as a debt, could be made the foundation of a right to interest, on a future allowance of the claim, it was difficult to conceive. Every rejection of a claim was to be taken to have been right, upon the proofs which were exhibited, or upon the principles on which Congress acted at the time. A subsequent Congress might allow the claim on further proof, or upon new and different principles; but it could not say that the rejection by a former Congress was a wrongful act, and make that act the foundation of a new right against the Government. Instead of admitting the claims in question, Congress, on the first presentment of them, denied their validity, and rejected them. The claims, until very recently, had never been established so as to give them existence as debts, entitling them, according to any known principle, to carry interest.

But if the rejection of the claims was to be taken as the commencement of a right to interest, that right was to be considered as waived or lost by the negligence of the claimants. The rejection was no bar to a future application; but the persons interested in the claims had acquiesced in the rejection, and remained passive, sleeping upon their rights for more than forty years before they renewed their application.

It was at least questionable whether even the principal ought to have been allowed at such a distance of time, especially when it was considered that the records and papers connected with matters of the sort, and which might have contained evidence of payment, were lost in the destruction of the public offices. It was certainly quite enough to permit the rejection of the claims, in 1792, to have the effect to rebut the presumption of payment arising from the lapse of time, and enable the claimants, at so remote a day, to receive the principal. But to superadd interest to the principal, on stale demands, which had slept quietly for nearly half a century, would be an act not called for by any principle of justice with which Mr. P. was familiar. It was worthy of notice that the bill provided for the payment of interest for nearly fifty years, three or four times the amount of the principal. The very statement of the thing was enough to excite surprise, and the act, under the circumstances, might well be said to present an instance of legislation equally strange and unprecedented.

Indeed, the right of the legal representatives of the persons, to whom half pay for seven years was granted by the resolution of Congress, to claim the benefit of the resolution, was by no means free from doubt. The allowance granted would seem to be an allowance personal to the individuals entitled, and in strictness could be claimed only by themselves. The allowance was in the nature of a pension, dependent on the lives of the individuals, and did not go to their legal representatives. It was an act of liberality, then, rather than justice, to allow the principal in the cases mentioned in the bill. To add interest to the principal would be carrying the liberality of Congress to an improvident extent. Besides, interest

had never been, and never could be consistently, allowed on a pension, or upon any claim in the nature of a pension.

Mr. HILL said he had supposed, in every case of claim, that the facts should be ascertained. On inquiry at the Secretary's table, he had found that there was neither petition nor scrap of evidence in relation to this bill, on which to predicate the claims. Gentlemen on the Committee on Revolutionary Claims had stated their recollections about it. The Senator from Maine, [Mr. SHEPLEY,] then on that committee, had recollected that the committee had agreed to allow interest, and said he omitted to move an amendment, through mistake, which he had been directed to report by the committee. Now, the bill, as it originally passed the House at the last session, provided for the payment of interest. After full consideration, the interest had been stricken out by the committee, and the amendment was agreed to by the Senate; and it was strange, indeed, if the committee had reversed their first decision, there was no evidence of it in the history of the bill at the last session.

I spent several hours (said Mr. H.) at the Capitol, in looking and inquiring, and could not find a syllable of evidence, either in the office of our Secretary or that of the Clerk of the House. I took another day to inquire at the Treasury, and I there found that all the evidence in the case was the *ex parte* statement of the agents who appeared last year anonymously to the committee. In that statement I find, from a report of the Secretary of War made in 1791, that one of the claimants, whose heirs have been paid for his services at the last session $3,150, had never been mustered or served at all, and that the other died after he had been in the service a short time.

Gentlemen say that these claims had been proved to the satisfaction of Congress in 1791. It may be answered, that no claim is proved to the satisfaction of Congress, until Congress pass a law approving and allowing it.

The claim is made under a resolution of Congress of August 24, 1780, which extended the provisions of another resolution, of May 15, 1778, granting to officers commissioned by Congress, who continued in service during the war, half pay for seven years, to the widows and children of those officers who had died in the service. The Congress of that day, as well as the accounting officers of the Government, considered the resolution as not going back of that of May 15, 1778.

If the claims had been valid under the resolution of 1780, no new act of Congress would have been necessary; for the accounting officers had full authority to settle and pay all claims that were included in that resolution. These claims, with several others, were brought before Congress in 1791; the Secretary of War reported on the several cases, rather leaning to the opinion that it would be equitable to extend to the widows and orphans of those officers who died prior to May 15, 1778, the benefits that had been extended to those who died before that time.

The bill passed the House of Representatives of 1791, embracing several cases of half pay or commutation, and was sent to the Senate. In that body, after full investigation by a committee, the question on the whole bill, by a motion to strike out the first section, was taken, and the bill was rejected. Afterwards, that vote was reconsidered, and a further discussion was had. Several names were stricken from the bill, and among them the names of Colonels Bond and Douglass; and the bill passed, including such names as were not stricken out.

This rejection of the claim of these two officers was made by a Congress which had much better means of ascertaining the facts than we can have at this time. It was done after full consideration; the bill of last session passed when not one in ten of the members besides the committee could know any thing of it. The heirs or representatives, considering that the rejection by Congress of their claims for commutation had been final, had rested quietly forty-two years; and I venture to say they never would have appeared here at all, had not the old papers in relation to these cases been hunted up by persons who had acted as officers of the House of Representatives and agents at the same time. Not only have the files been ransacked for such pretexts of claim as this bill presents, but the country has been travelled far and near to find the persons who might have an interest in them.

The heirs of these two officers, doubtful as were their claims, were paid in each case $3,150 by the bill of the last session. Being clearly not a case coming under the law at the best, this sum of $3,150 was a generous amount to be allowed them. A majority of the officers of the Revolution, their widows or heirs, who received commutation, never realized so great a sum of money as this, if the whole they did receive had been put on interest until this time. The interest proposed to be now allowed in addition, will exceed eight thousand dollars to each.

It has been said, the reason they were not paid originally, was the poverty of the Government at the time the claim was preferred; and that we can now be generous, because the nation is out of debt. The former poverty of the country cannot be justly urged; for it is well known that after the funding system had been established—and this was accomplished when these claims were first presented—that the Government was generous to a fault to every thing that appeared in the shape of claims. The gentlemen speculators, the prowling agents of that day, had bought up for a trifle the most of these claims; they were made rich, while the poor officer and soldier, who spent his strength and ruined his health in the public service, repined in poverty.

The Senator from Virginia [Mr. LEIGH] the other day doubted my statement that agents were hunting up claims, or pretended claims, for services in the Revolution, in various parts of the country. I now repeat that statement. I have before me one of many letters addressed to revolutionary officers in New England, by agents who are speculating on these claims.

[Mr. H. here read a letter, a part of the contents of which are in the following words: "I have documents which will enable you to obtain your commutation pay as a captain in the Massachusetts continental line, if not received. My charge is 25 per cent. if I succeed, nothing if I do not."]

This letter was written by a Virginian. Hundreds of letters, within the last year, of a similar import, had been sent, directed to revolutionary officers, some of whom had been in their graves many years. In this instance it so happened that there was proof in the public offices that the officer had, time almost beyond his memory, received his commutation; but there are hundreds of cases where pay was so received, of which there is no evidence in the offices. This fact is well known to the 25 per cent. speculators and agents. Twenty-five per cent. on ten thousand dollars, principal and interest, amounts to a pretty round sum, no less than two thousand five hundred dollars; but neither twenty-five nor fifty per cent. is the highest amount. I have good reason to believe there are cases where the speculator has been but a pretended agent, and has received every dollar!

The principle established by this bill will apply to every claim that has ever been paid by the Government after it was laid in. The same kind of allowance is contemplated in the bill that was considered a few days since for paying back the amount of the sales of goods

seized on the Canada frontier, at the time of the declaration of war against Great Britain, nearly twenty-three years ago. After repeated importunity for a series of years, as a matter of grace, a considerable amount, being all that was paid into the treasury, was restored to the person whose goods had been seized and condemned according to law, without the least particle of testimony, that I have ever heard of, that they were wrongfully condemned. This matter of grace is taken as an earnest for further favor; and, pursuing the usual course, the favored individual importunes Congress six years more, when a bill is introduced to pay him interest on the amount originally allowed. In this state of things, a strong appeal is made to the compassion of the Senate, on account of the sacrifices this claimant has made in prosecuting his claim for interest.

To illustrate the extent to which this bill will lead us, I would refer to the case of those pensioners under the act of 1818 who furnished proof to the Department that they were entitled to pensions, but who, on the alleged ground that they had too much property, were stricken from the roll. In nine cases out of ten, those persons stricken from the roll were as much entitled as those retained. Will Congress not be bound, on the principle of this bill, to pay both principal and interest, from the time proof was made, and to change entirely the ground taken by the War Department, that the applicant for a pension under the law of 1818 is not entitled until the grant shall be made? Every restitution or payment of principal, where interest was not included, on the principle of this bill, must be followed by a new bill, allowing interest to all claimants who did not receive interest, from the time any service was performed, or any thing became due from the Government.

After some further debate between Messrs. WRIGHT, LEIGH, and SHEPLEY, the question was put, and decided by yeas and nays, as follows:

YEAS—Messrs. Bibb, Clay, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Leigh, Linn, McKean, Mangum, Moore, Poindexter, Porter, Robbins, Shepley, Smith, Southard, Swift, Tomlinson, Tyler, White—23.

NAYS—Messrs. Benton, Brown, Grundy Hill, King of Alabama, King of Georgia, Knight, Morris, Naudain, Prentiss, Robinson, Tallmadge, Tipton, Wright—14.

So the bill passed.

Mr. POINDEXTER asked to be excused from serving longer as a member of the Committee on the Library; which was granted.

The Senate proceeded by ballot to fill the vacancy occasioned by the resignation of Mr. POINDEXTER, and Mr. PRESTON was elected.

The Senate then adjourned.

WEDNESDAY, FEBRUARY 4.

JUDICIAL CIRCUITS.

On motion of Mr. FRELINGHUYSEN, the resolution submitted by him some days since, contemplating so to arrange the circuit courts of the United States as to annex the fourth to the third judicial circuit, and to extend the benefits of the circuit system to all the States, was taken up for consideration.

Mr. FRELINGHUYSEN said:

Mr. President, I will say a few words in support of the resolution which I have had the honor to lay on your table. The Senate will perceive that it contains two propositions, both of which I am prepared to adopt. Other gentlemen may be of opinion that time or policy will not permit legislation on the second proposition. If such be the case, they will of course pause on the first. This proposes to annex the fourth judicial circuit to to the third. The present fourth circuit is composed of the districts of Delaware and Maryland, and the third of the districts of New Jersey and Pennsylvania. So that, by such annexation, the judge of the third circuit, so to be formed, will have assigned to him the discharge of judicial circuit duties in four States. I regard the occasion, sir, as peculiarly happy, that enables us, by the resignation of a venerable Justice of the Supreme Court, so to arrange his late circuit as to extend the benefits of the system to the Western members of the Union. A moment's consideration will abundantly sustain this remark, in all views that may be taken of the subject. First, as to the new circuit to be composed of the third and fourth. It is no larger than the first circuit, consisting of Maine, Massachusetts, New Hampshire, and Rhode Island, in which the able and enlightened jurist assigned to it so satisfactorily dispenses the public justice; and, moreover, the local relations of the justice of the third circuit to his new range of duty is very favorable. One district (Pennsylvania) is at his door, New Jersey is within three hours' travel, Delaware no farther, and Maryland within five or six hours. I am, besides, sir, authorized to state that the honorable judge at the head of this circuit will most cheerfully accept the proposed delegation of more extended duties.

These suggestions, and the course they indicate, answer the full object of the first branch of the resolution. The vacancy occasioned by the recent resignation of a judge of the Supreme Court will be most happily and advantageously improved, to afford the West a participation in the benefits of our judiciary system, whenever Congress shall take up the subject for legislation. If gentlemen are now prepared to act, they will agree to the second branch of the resolution. This proposes an extension of our system to the Western States. In place of the present vacant fourth circuit, I would respectfully suggest the expediency of creating a circuit at the West, of the districts of Louisiana, Mississippi, Illinois, and Missouri; of attaching Indiana to the seventh circuit, and Alabama to the sixth. And thus, sir, with no increase of members in the court, the circuit system will be enjoyed by every State in our confederacy. Sir, I am assured by professional gentlemen from the West, members of the Senate, that a circuit, held annually in each State, will abundantly meet all their wants. Then the judge of this new circuit, with the four States washed by navigable waters, can readily repair to them, and impart the contemplated benefits. The judge of the seventh circuit will willingly take charge of Indiana, and, with Alabama annexed to South Carolina and Georgia, the system is complete. Look a little further, sir, in prospect of the Territories becoming States, and requiring further provision. When the fifth circuit shall become vacant, at a far distant day, I trust, then, sir, may the States of Virginia and North Carolina, that compose it, be attached to South Carolina and Georgia; and the Western States receive the judicial labors of three justices of the Supreme Court, while the fifteen States on this side of the mountains will have four—a distribution fair, equal, and just.

Mr. President, I consider this one of the most interesting events that has occurred in our political history. The great and serious obstacle that has stood in the way of the claims of the West, have been the difficulties and dangers of enlarging the Court to the number that was desired. Sir, it was a well-founded apprehension that such enlargement would impair the energy and moral influence of the Court. A door is now opened, by which all these dangers are avoided, and a full and healthful operation shall be given to our judiciary system. I hope the resolution may meet the approbation of the Senate.

The resolution was then adopted, *nem. con.*

THE UNITED STATES AND INDIAN TRIBES.

Mr. CLAY addressed the Chair. He held in his hands, and begged leave to present to the Senate, certain resolutions and a memorial to the Senate and House of Representatives of the United States, of a council met at Running Waters, consisting of a portion of the Cherokee Indians. The Cherokees (said Mr. C.) have a country--if, indeed, it can be any longer called their country--which is comprised within the limits of Georgia, Alabama, Tennessee, and North Carolina. They have a population which is variously estimated, but which, according to the best information which I possess, amounts to about fifteen thousand souls. Of this population, a portion, believed to be much the greater part, amounting, as is estimated, to between nine and ten thousand souls, reside within the limits of the State of Georgia. The Senate was well aware, Mr. C. said, that, for several years past, it had been the policy of the general Government to transfer the Indians to the west of the Mississippi river, and that a portion of the Cherokees have already availed themselves of this policy of the Government, and emigrated beyond the Mississippi. Of those who remain, a portion--a respectable, but also an inconsiderable portion—are desirous to emigrate to the West, and a much larger portion desire to remain on their lands, and lay their bones where rest those of their ancestors. The papers (said Mr. C.) which I now present emanate from the minor portion of the Cherokees—from those who are in favor of emigration. They present a case which appeals strongly to the sympathies of Congress. They say that it is impossible for them to continue to live under laws which they do not understand, passed by authority in which they have no share, promulgated in language of which nothing is known to the greater portion of them, and establishing rules for their government entirely unadapted to their nature, education, and habits. They say that destruction is hanging over them, if they remain; that their right of self-government being destroyed, though they are sensible of all the privations, hardships, and sufferings of banishment from their native homes, they prefer exile with liberty, to residence in their homes with slavery. They implore, therefore, the intervention of the general Government, to provide for their removal west of the Mississippi, and to establish guarantees, never hereafter to be violated, of the possession of the lands to be acquired by them west of the Mississippi, and of the perpetual right of self-government. This was the object of the resolutions and petitions which, Mr. C. said, he was about to offer to the Senate.

But (said Mr. C.) I have thought this occasion was one which called upon me to express the opinions and sentiments which I hold in relation to this entire subject, as respects not only the emigrating Indians, but those also who are desirous to remain at home; in short, to express, in concise terms, my views of the relations between the Indian tribes and the people of the United States, the rights of both parties, and the duties of this Government in regard to them.

The rights of the Indians, Mr. C. said, were to be ascertained, in the first place, by the solemn stipulations of numerous treaties made with them by the United States. It was not his purpose to call the attention of the Senate to all the treaties which have been made with Indian tribes bearing on this particular topic; but he felt constrained to ask the attention of the Senate to some portions of those treaties which have been made with the Cherokees, and to the memorable treaty of Greenville, which had terminated the war that previously thereto, for many years, raged between the United States and the northwestern Indian tribes. He found, upon consulting the collection of Indian treaties in his hand, that, within the last half century, fourteen different treaties had been concluded with the Cherokees, the first of which bore date in the year 1775, and some one or more of which had been concluded under every administration of the general Government, from the beginning of it to the present time, except the present administration and that which immediately preceded it. The treaty of Hopewell, the first in the series, was concluded in 1775, in the third article of which "the said Indians, for themselves and their respective tribes and towns, do acknowledge all the Cherokees to be under the protection of the United States of America, and of no other sovereign whatsoever." The fifth article of the same treaty provides that,. "If any citizen of the United States, or other person, not being an Indian, shall attempt to settle on any of the lands westward or southward of the said boundary, which are hereby allotted to the Indians for their hunting grounds, or, having already settled, and will not remove from the same within six months after the ratification of this treaty, such person shall forfeit the protection of the United States, and the Indians may punish him or not, as they please: *Provided, nevertheless*, That this article shall not extend to the people settled between the fork of French Broad and Holston rivers," &c.

The next treaty in the series, which was concluded after the establishment of the Government of the United States, under the auspices of the Father of his Country, was in the year 1791, on the banks of the Holston, and contains the following provision: "ART. 7. The United States solemnly guaranty to the Cherokee nation all their lands not hereby ceded." This, Mr. C. said, was not an ordinary assurance of protection, &c., but a solemn guarantee of the rights of the Cherokees to the lands in question. The next treaty to which he would call the attention of the Senate was concluded in 1794, also under the auspices of General Washington, and declares as follows: "The undersigned, Henry KNOX, Secretary for the Department of War, being authorized thereto by the President of the United States, in behalf of the said United States, and the undersigned chiefs and warriors, in their own names, and in behalf of the whole Cherokee nation, are desirous of re-establishing peace and friendship between the said parties in a permanent manner, do hereby declare that the said treaty of Holston is, to all intents and purposes, in full force, and binding upon the said parties, as well in respect to the boundaries therein mentioned, as in all other respects whatever." This treaty, it is seen, renews the solemn guarantee contained in the preceding treaty, and declares it to be binding and obligatory upon the parties in all respects whatever. Again: in another treaty, concluded in 1798, under the second Chief Magistrate of the United States, we find the following stipulations: "ART. 2. The treaties subsisting between the present contracting parties are acknowledged to be of full and operating force, together with the construction and usage under their respective articles, and so to continue." "ART. 3. The limits and boundaries of the Cherokee nation, as stipulated and marked by the existing treaties between the parties, shall be and remain the same, where not altered by the present treaty."

There were other provisions, in other treaties, to which, if he did not intend to take up as little time as possible of the Senate, he might advantageously call their attention. He would, however, pass on to one of the last treaties with the Cherokees, which was concluded in the year 1817. That treaty recognised the difference existing between the two portions of the Cherokees, one of which was desirous to remain at home and prosecute the good work of civilization, in which they had made some progress, and the other portion was desirous to go beyond the Mississippi. In that treaty, the fifth article,

after several other stipulations, concludes as follows: "And it is further stipulated, that the treaties heretofore between the Cherokee nation and the United States are to continue in full force with both parts of the nation, and both parts thereof entitled to all the privileges and immunities which the old nation enjoyed under the aforesaid treaties; the United States reserving the right of establishing factories, a military post, and roads, within the boundaries above defined." And to this treaty, thus emphatically renewing the recognition of the rights of the Indians, is signed the name, as one of the commissioners of the United States who negotiated it, of the present Chief Magistrate of the United States.

These were the stipulations in treaties with the Cherokee nation, to which, Mr. C. said, he thought proper to call the attention of the Senate. He would now turn to the treaty at Greenville, concluded about forty years ago, recognising some general principles applicable to this subject. Mr. C. then quoted the fifth article of that treaty, as follows: To prevent any misunderstanding about the Indian lands relinquished by the United States in the fourth article, it is now explicitly declared that the meaning of that relinquishment is this: the Indian tribes who have a right to those lands are quietly to enjoy them, hunting, planting, and dwelling thereon so long as they please, without any molestation from the United States; but when those tribes, or any of them, shall be disposed to sell their lands, or any part of them, they are to be sold only to the United States; and until such sale, the United States will protect all the said Indian tribes in the quiet enjoyment of their lands against all citizens of the United States, and against all other white persons who intrude upon the same. And the said Indian tribes again acknowledge themselves to be under the protection of the said United States, and no other Power whatever."

Such, sir, (said Mr. C.,) are the rights of the Indian tribes. And what are those rights? They are, that the Indians shall live under their own customs and laws; that they shall live upon their own lands, hunting, planting, and dwelling thereon so long as they please, without interruption or molestation of any sort from the white people of the United States, acknowledging themselves under the protection of the United States, and of no other Power whatever; that when they no longer wish to keep the lands, they shall sell them only to the United States, whose Government thus secures to itself the pre-emptive right of purchase in them. These rights, so secured by successive treaties and guarantees, have also been recognised on several occasions, by the highest judicial tribunals. Mr. C. here quoted from an opinion of the Supreme Court a passage declaring that the Indians are acknowledged to have an unquestionable and heretofore unquestioned right to their land, until it shall be extinguished by voluntary cession to this Government.

But (said Mr. C.) it is not at home alone that the rights of the Indians within the limits of the United States have been recognised. Not only has the Executive, the Congress of the United States, and the Supreme Court, recognised these rights, but in one of the most important epochs of this Government, and on one of the most solemn occasions in our intercourse with foreign Powers, these rights of the Indian tribes have been acknowledged. You, sir, [addressing the President of the Senate,] will understand me at once to refer to the negotiation between the Governments of Great Britain and that of the United States, which had for its object the termination of the late war between the two countries. Sir, it must be within your recollection, and that of every member of the Senate, that the hinge upon which that negotiation turned, the ground upon which it was for a long time apprehended that the conference between the commissioners would terminate in a rupture of the negotiation between the two countries, was, the claim brought forward, on that memorable occasion, by Great Britain, in behalf of the Indians within the limits of the United States. It will be recollected that she advanced, as a principle from which she would not recede, as a *sine qua non*, again and again, during the progress of the negotiation, that the Indians, as her allies, should be included in the treaty of peace which the negotiators were about forming; that they should have a permanent boundary assigned them, and that neither Great Britain nor the United States should be at liberty to purchase their lands.

Such were the pretensions urged on that occasion, which the commissioners of the United States had felt it to be their imperative duty to resist. To establish as the boundary the line of the treaty of Greenville, as proposed, which would have excluded from the benefit of American laws and privileges a population of not less than a hundred thousand of the inhabitants of Ohio, American citizens, entitled to the protection of the Government, was a proposition which the American negotiators could not for a moment entertain; they would not even refer it to their Government, though assured that it would there meet the same unanimous rejection that it did from them. But it became a matter of some importance that a satisfactory assurance should be given to Great Britain that the war, which we were about to bring to a conclusion with her, should close also with her allies; and what was that assurance? Mr. C. said he would not trouble the Senate with tracing the whole account of that negotiation, but he begged leave to call their attention to one of the passages of it. You will find, (said Mr. C.,) on examining the history of the negotiation, that the demand brought forward by the British Government through their minister, on this occasion, was the subject of several argumentative papers. Towards the close of this correspondence, reviewing the course pursued towards the aborigines by the several European Powers which had planted colonies in America, comparing it with that of the United States, and contrasting the lenity, kindness, and forbearance of the United States, with the rigor and severity of other Powers, the American negotiators expressed themselves as follows:

"From the rigor of this system, however, as practised by Great Britain and all the other European Powers in America, the humane and liberal policy of the United States has voluntarily relaxed. A celebrated writer on the law of nations, to whose authority British jurists have taken particular satisfaction in appealing, after stating, in the most explicit manner, the legitimacy of colonial settlements in America, to the exclusion of all rights of uncivilized Indian tribes, has taken occasion to praise the first settlers of New England, and of the founder of Pennsylvania, in having purchased of the Indians the lands they resolved to cultivate, notwithstanding their being furnished with a charter from their sovereign. It is this example which the United States, since they became by their independence the sovereigns of the territory, have adopted and organized into a political system. Under that system the Indians residing in the United States are so far independent that they live under their own customs, and not under the laws of the United States; that their rights upon the lands where they inhabit or hunt are secured to them by boundaries defined in amicable treaties between the United States and themselves; and that whenever those boundaries are varied, it is also by amicable and voluntary treaties, by which they receive from the United States ample compensation for every right they have to the lands ceded by them," &c.

The correspondence was farther continued; and, finally, the commissioners on the part of Great Britain proposed an article, to which the American commissioners

assented, the basis of which is a declaration of what is the state of the law between the Indian tribes and the people of the United States. They then proposed a farther article, which declared that the United States should endeavor to restore peace to the Indians who had acted on the side of Great Britain, together with all the rights, possessions, privileges, and immunities, which they possessed prior to the year 1811—that is, antecedent to the war between England and the United States, in consideration that Great Britain would terminate the war so far as respected the Indians who had been allies of the United States, and restore to them all the rights, privileges, possessions, and immunities which, these also had enjoyed previously to the same period. Mr. President, I here state my solemn belief that, if the American commissioners had not declared the laws between the Indians and the people of this country, and the rights of the Indians, to be such as they are stated to be in the extracts I have read to the Senate; if they had then stated that any one State of this Union who happened to have Indians residing within its limits possessed the right of extending over them the laws of such State, and of taking their lands, when and how it pleased, that the effect would have been a prolongation of the war. I again declare my most solemn belief that Great Britain, who assented with great reluctance to this mutual stipulation with respect to the Indians, never would have done it at all, but under a conviction of the correspondence of those principles of Indian international law (if I may use such a phrase) with those which the United States Government had respected ever since the period of our independence.

Sir, if I am right in this, let me ask whether, in adopting the new code which now prevails, and by which the rights of the Indians have been trampled on, and the most solemn obligations of treaties have been disregarded, we are not chargeable with having induced that Power to conclude a peace with us by suggestions utterly unfounded and erroneous?

Most of the treaties between the Cherokee nation of Indians and the United States have been submitted to the Senate for ratification, and the Senate have acted upon them in conformity with their constitutional power. Besides the action of the Senate, as a legislative body, in the enactment of laws in conformity with their stipulations, regulating the intercourse of our citizens with that nation, it has acted in its separate character, and confirmed the treaties themselves by the constitutional majority of two-thirds of its members. Thus have those treaties been sanctioned by the Government of the United States and by every branch of that Government—by the Senate, the Executive, and the Supreme Court—both at home and abroad. But not only have the rights of the Cherokees received all these recognitions; they have been, by implication, recognised by the State of Georgia itself, in the act of 1802, in which she stipulated that the Government of the United States, and not the State of Georgia, should extinguish the Indian title to land within her limits; and the general Government has been, from time to time, urged by Georgia to comply with its engagement, from that period until the adoption of the late new policy upon this subject.

Having thus, Mr. President, stated, as I hope with clearness, the *rights* of the Indian tribes, as recognised by the most solemn acts than can be entered into by any Government, let me, in the next place, inquire into the nature of the *injuries* which have been inflicted upon them; in other words, into the present condition of these Cherokees, to whom protection had been assured as well by solemn treaties as by the laws and guarantees of the United States Government.

And here let me be permitted to say, that I go into this subject with feelings which no language at my command will enable me adequately to express. I assure the Senate, and in an especial manner do I assure the honorable Senators from Georgia, that my wish and purpose is any other than to excite the slightest possible irritation on the part of any human being. Far from it. I am actuated only by feelings of grief, feelings of sorrow, and of profound regret, irresistibly called forth by a contemplation of the miserable condition to which these unfortunate people have been reduced by acts of legislation proceeding from one of the States of this confederacy. I again assure the honorable Senators from Georgia that, if it has become my painful duty to comment upon some of these acts, I do it not with any desire to place them, or the State they represent, in an invidious position; but because Georgia was, I believe, the first in the career, the object of which seems to be the utter annihilation of every Indian right, and because she has certainly, in the promotion of it, far outstripped every other State in the Union.

I have not before me the various acts of the State in reference to the Indians within her bounds, and it is possible I may be under some mistake in reference to them; and if I am, no one will correct the error more readily, or with greater pleasure.

If, however, I had all those laws in my hands, I should not now attempt to read them. Instead of this, it will be sufficient for me to state the effects which have been produced by them upon the condition of the Cherokee Indians residing in that State. And here follows a list of what has been done by her Legislature. Her first act was to abolish the government of these Cherokees. No human community can exist without a government of some kind; and the Cherokees, imitating our example, and having learned from us something of the principles of a free constitution, established for themselves a government somewhat resembling our own. It is quite immaterial to us what its form was. They always had had some government among them; and we guarantied to them the right of living under their own laws and customs, unmolested by any one; insomuch that our own citizens were outlawed should they presume to interfere with them. What particular regulations they adopted in the management of their humble and limited concerns, is a matter with which we have no concern. However, the very first act of the Georgia Legislature was to abolish all government of every sort among these people, and to extend the laws and Government of the State of Georgia over them. The next step was to divide their territory into counties; the next, to survey the Cherokee lands; and the last, to distribute this land among the citizens of Georgia, by lottery, giving to every head of a family one ticket, and the prize in land that should be drawn against it. To be sure there were many reservations for the heads of Indian families; and of how much did gentlemen suppose?—of one hundred and sixty acres only, and this to include their improvements. But even to this limited possession the poor Indian was to have no fee simple title; he was to hold as a mere occupant at the will of the State of Georgia, for just as long or as short a time as she might think proper. The laws, at the same time, gave him no one political right whatever. He could not become a member of the State Legislature, nor could he hold any office under State authority, nor could he vote as an elector. He possessed not one single right of a freeman. No: not even the poor privilege of testifying to his wrongs in the character of a witness in the courts of Georgia, or in any matter of controversy whatsoever.

These, Mr. President, are the acts of the Legislature of the State of Georgia, in relation to the Indians. They were not all passed at one session; they were enacted, time after time, as the State advanced further and further in her steps to the acquisition of the Indian country,

and the destruction and annihilation of all Indian rights; until, by a recent act of the same body, the courts of the State itself are occluded against the Indian sufferer, and he is actually denied an appeal even to foreign tribunals, in the erection and in the laws of which he had no voice, there to complain of his wrongs. If he enters the hall of Georgia's justice, it is upon a surrender at the threshold of all his rights. The history of this last law, to which I have alluded, is this: When the previous law of the State dividing the Indian lands by lottery was passed, some Indians made an appeal to one of the judges of the State, and applied for an injunction against the proceeding; and such was the undeniable justice of their plea, that the judge found himself unable to refuse it, and he granted the injunction sought. It was that injunction which led to the passage of this act: to some of the provisions of which I now invite the attention of the Senate. And first to the *title* of the act: "A bill to amend an act entitled an 'act more effectually to provide for the government and protection of the Cherokee Indians residing within the limits of Georgia, and to prescribe the bounds of their occupant claims; and also to authorize grants to issue for lots drawn in the late land and gold lotteries"—Ah, sir, it was the pursuit of *gold* which led the Spanish invader to desolate the fair fields of Mexico and Peru—"and to provide for the appointment of an agent to carry certain parts thereof into execution; and to fix the salary of such agents, and to punish those persons who may deter Indians from enrolling for emigration,' passed 20th December, 1833." Well, sir, this bill goes on to provide "That it shall be the duty of the agent or agents appointed by his excellency the Governor, under the authority of this or the act of which it is amendatory, to report to him the number, district, and section, of all lots of land subject to be granted by the provisions of said act, which he may be required to do by the drawer, or his agent, or the person claiming the same; and it shall be the duty of his excellency the Governor, upon the application of the drawer of any of the aforesaid lots, his or her special agents, or the person to whom the drawer may have *bona fide* conveyed the same, his agents or assigns, to issue a grant therefor; and it shall be the duty of the said agent or agents, upon the production of the grant so issued as aforesaid by the grantor, his or her agent, or the person, or his or her agent, to whom said land so granted as aforesaid may have been *bona fide* conveyed, to deliver possession of said granted lot to the said grantee, or person entitled to the possession of the same under the provisions of this act, or the act of which this is amendatory, and his excellency the Governor is hereby authorized, upon satisfactory evidence that the said agent is impeded or resisted in delivering such possession, by a force which he cannot overcome, to order out a sufficient force to carry the power of said agent or agents fully into effect, and to pay the expense of the same out of the contingent fund: provided nothing in this act shall be so construed as to require the interference of the said agent between two or more individuals claiming possession, by virtue of titles derived from a grant from the State to any lot."

Thus, after the State of Georgia had distributed the lands of the Indians by lottery, and the drawers of prizes were authorized to receive grants of the land drawn, and with these grants in their hand were authorized to demand of the agent of the State, appointed for the purpose, to be put in possession of the soil thus obtained; and if any resistance to their entry should be made—and who was to make it but a poor Indian?—the Governor is empowered to turn out the military force of the State, and enable the agent to take possession by force, without trial, without judgment, and without investigation.

But, should there be two claimants of the prize, should two of the ticket-holders dispute their claim to the same lot, then no military force was to be used. It was only when the resistance was by an Indian—it was only when Indian rights should come into collision with the alleged rights of the State of Georgia, that the strong hand of military power was instantly to interpose.

The next section of the act is in these words: "And be it further enacted by the authority aforesaid, That if any person dispossessed of a lot of land under this act, or the act of which it is amendatory, shall go before a justice of the peace or of the inferior court, and make affidavit that he or she was not liable to be dispossessed under or by any of the provisions of this or the aforesaid act, and file said affidavit in the clerk's office of the superior court of the county in which such land shall lie, such person, upon giving bond and security in the clerk's office for the costs to accrue on the trial, shall be permitted within ten days from such dispossessing to enter an appeal to said superior court, and at said court the judge shall cause an issue to be made up between the appellant and the person to whom possession of said land was delivered by either of said agents, which said issue shall be in the following form"—

Mr. CUTHBERT, of Georgia, here interposed; and having obtained Mr. CLAY's consent to explain, stated that he had unfortunately not been in the Senate when the honorable Senator commenced his speech; but had learned that it was in support of a memorial from certain Cherokee Indians in the State of Georgia, who desired to emigrate. He must be permitted to say that the current of the honorable Senator's remarks did not suit remarkably well the subject of such a memorial. A memorial of a different kind had been presented, and which the Committee on Indian Affairs had before it, to which the Senator's remarks would better apply. The present discussion was wholly unexpected, and it seemed to him not in consistency with the object of the memorial he had presented.

Mr. CLAY replied that he was truly sorry the honorable gentleman had been absent when he commenced speaking. He had delayed presenting the memorial because he observed that neither of the Senators from Georgia was in his seat, until the hour when they might be expected to be present, and when one of them [Mr. KING] had actually taken his seat. If the honorable Senator had been present he would have heard him (Mr. C.) say that he thought the presentation of the memorial a fit occasion to express his sentiments, not only touching the rights of these individual petitioners, but on the rights of all the Indian tribes, and their relations to this Government. And if he would have but a little patience he would find that it was his intention to present propositions which went to embrace both resolutions.

Mr. CLAY now resumed the course of his speech. And here, Mr. President, let me pause and invite the attention of the Senate to the provision in the act of Georgia which I was reading (the substance of which Mr. C. here repeated)—that is, that he may have the privilege of an appeal to a tribunal of justice by forms and by a bond with the nature and force of which he is unacquainted; and that then he may have—what beside? I invoke the attention of the Senate to this part of the law. What, I ask, does it secure to the Indian? His rights? the rights recognised by treaties? the rights guarantied to him by the most solemn acts which human Governments can perform? No. It allows him to come into the courts of the State, and there to enjoy the benefit of the summary proceeding called in the act "an appeal"—but which can never be continued beyond a second term; and when he comes there, what then? He shall be permitted to come into court and enter an appeal, which shall be in the following form:

"'A B, who was dispossessed of a lot of land by an

agent of the State of Georgia, comes into court, and, admitting the right of the State of Georgia to pass the law under which agent acted, avers that he was not liable to be dispossessed of said land, by or under any one of the provisions of the act of the General Assembly of Georgia, passed 20th December, 1833, "more effectually to provide for the protection of the Cherokee Indians residing within the limits of Georgia, and to prescribe the bounds of their occupant claims, and also to authorize grants to issue for lots drawn in the land and gold lotteries in certain cases, and to provide for the appointment of an agent to carry certain parts thereof into execution, and to fix the salary of such agent, and to punish those persons who may deter Indians from enrolling for emigration," or the act amendatory thereof, passed at the session of the Legislature of 1834;' in which issue the person to whom possession of said land was delivered shall join; and which issue shall constitute the entire pleadings between the parties; nor shall the court allow any matter other than is contained in said issue to be placed upon the record or files of said court; and said cause shall be tried at the first term of the court, unless good cause shall be shown for a continuance; and the same party shall not be permitted to continue said cause more than once, except for unavoidable providential cause: nor shall said court, at the instance of either party, pass any order or grant any injunction to stay said cause, nor permit to be ingrafted on said cause any other proceedings whatever."

At the same time we find, by another enactment, the judges of the courts of Georgia are restrained from granting injunctions, so that the only form in which the Indian can come before them is in the form of an appeal; and in this, the very first step is an absolute renunciation of the rights he holds by treaty, and the unqualified admission of the rights of his antagonist as conferred by the laws of Georgia: and the court is expressly prohibited from putting any thing else upon the record. Why? Do we not all know the reason? If the poor Indian was allowed to put in a plea stating his rights, and the court should then decide against him, the cause would go up on an appeal to the Supreme Court; the decision could be re-examined, could be annulled, and the authority of treaties vindicated. But, to prevent this, to make it impossible, he is compelled, on entering the court, to renounce his Indian rights, and the court is forbidden to put any thing on record which can bring up a decision upon them.

Mr. President, I have already stated that, in the observations I have made, I am actuated by no other feelings than such as ought to be in the breast of every honest man—the feelings of common justice. I would say nothing, I would whisper nothing, I would insinuate nothing, I would think nothing, which can in the remotest degree cause irritation in the mind of any one, of any Senator here, of any State in the Union. I have too much respect for every member of the confederacy. I feel nothing but grief for the wretched condition of these most unfortunate people, and every emotion of my bosom dissuades me from the use of epithets that might raise emotions which should draw the attention of the Senate from the justice of their claims. I forbear to apply to this law any epithet of any kind. Sir, no epithet is needed. The features of the law itself; its warrant for the interposition of military power, when no trial and no judgment has been allowed; its denial of any appeal, unless the unhappy Indian shall first renounce his own rights, and admit the rights of his opponent—features such as these are enough to show what the true character of the act is, and supersede the necessity of all epithets, were I even capable of applying any.

The Senate will thus perceive that the whole power of the State of Georgia, military, as well as civil, has been made to bear upon these Indians, without their having any voice in forming, judgment upon, or executing, the laws under which he is placed, and without even the poor privilege of establishing the injury he may have suffered by Indian evidence: nay, worse still, not even by the evidence of a white man! Because the renunciation of his rights precludes all evidence, white or black, civilized or savage. There then he lies, with his property, his rights, and every privilege which makes human existence desirable, at the mere mercy of the State of Georgia; a State, in whose Government or laws he has no voice. Sir, it is impossible for the most active imagination to conceive a condition of human society more perfectly wretched. Shall I be told that the condition of the African slave is worse? No, sir; no, sir. It is not worse. The interest of the master makes it at once his duty and his inclination to provide for the comfort and the health of his slave: for without these he would be unprofitable. Both pride and interest render the master prompt in vindicating the rights of his slave, and protecting him from the oppression of others: and the laws secure to him the amplest means to do so. But who, what human being, stands in the relation of master, or any other relation, which makes him interested in the preservation or protection of the poor Indian, thus degraded and miserable? Thrust out from human society, without the sympathies of any, and placed without the pale of common justice, who is there to protect him, or to defend his rights?

Such, Mr. President, is the present condition of these Cherokee memorialists, whose case it is my duty to submit to the consideration of the Senate. There remains but one more inquiry before I conclude. Is there any REMEDY within the scope of the powers of the federal Government, as given by the constitution? If we are without power, if we have no constitutional authority, then we are also without responsibility. Our regrets may be excited, our sympathies may be moved, our humanity may be shocked, our hearts may be grieved; but if our hands are tied, we can only unite with all the good, the Christian, and the benevolent portion of the human family, in deploring what we cannot prevent.

But, sir, we are not thus powerless. I stated to the Senate, when I began, that there are two classes of the Cherokees; one of these classes desires to emigrate, and it was their petition I presented this morning; and with respect to these, our powers are ample to afford them the most liberal and effectual relief. They wish to go beyond the Mississippi, and to be guarantied in the possession of the country which may be there assigned to them. As the Congress of the United States have full powers over the Territories, we may give them all the guarantee which Congress can express for the undisturbed possession of their lands. With respect to their case there can be no question as to our powers.

And then, as to those who desire to remain on this side the river, I ask again, are we powerless? Can we afford them no redress? Must we sit still, and see the injury they suffer, and extend no hand to relieve them? It were strange, indeed, were such the case. Why have we guarantied to them the enjoyment of their own laws? Why have we pledged to them protection? Why have we assigned them limits of territory? Why have we declared that they shall enjoy their homes in peace, without molestation from any? If the United States Government has contracted these serious obligations, it ought, before the Indians were reduced by our assurances to rely upon our engagement, to have explained to them its want of authority to make the contract. Before we pretended to Great Britain, to Europe, to the civilized world, that such were the rights we would secure to the Indians, we ought to have examined the extent and

the ground of our own rights to do so. But is such, indeed, our situation? No, sir. Georgia has shut her courts against these Indians. What is the remedy? *To open ours.* Have we not the right? What says the constitution? "The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

But here was a case of conflict between the rights of the proprietors and the local laws; and here was the very case which the constitution contemplated, when it declared that the power of the federal Judiciary should extend to all cases under the authority of the United States. Therefore, it was fully within the competence of Congress, under the provisions of the constitution, to provide the manner in which the Cherokees might have their rights decided, because a grant of the means was included in the grant of jurisdiction. It was competent, then, for Congress to decide whether the Cherokees had a right to come into a court of justice and to make an appeal to the highest authority to sustain the solemn treaties under which their rights had been guarantied, and in the sacred character of which they had reposed their confidence. And if Congress possessed the power to extend relief to the Indians, were they not bound by the most sacred of human considerations, the obligations of treaties, the protection assured them, by every Christian tie, every benevolent feeling, every humane impulse of the human heart, to extend it? If they were to fail to do this, and there was, as reason and revelation declared there was, a tribunal of eternal justice to which all human power was amenable, how could they, if they refused to perform their duties to this injured and oppressed, though civilized race, expect to escape the visitations of that Divine vengeance which none would be permitted to avoid who had committed wrong, or done injustice to others?

At this moment, when the United States were urging on the Government of France the fulfilment of the obligations of the treaty concluded with that country, to the execution of which it was contended that France had plighted her sacred faith, what strength, what an irresistible force would be given to our plea, if we could say to France that, in all instances, we had completely fulfilled all our engagements, and that we had adhered faithfully to every obligation which we had contracted, no matter whether it was entered into with a powerful or a weak people; if we could say to her that we had complied with all our engagements to others, that we now came before her, always acting right as we had done, to induce her also to fulfil her obligations to us. How should we stand in the eyes of France, and of the civilized world, if, in spite of the most solemn treaties which had existed for half a century, and had been recognised in every form, and by every branch of the Government, how would they be justified if they suffered these treaties to be trampled under foot, and the rights which they were given to secure trodden into the dust? How would Great Britain, after the solemn understanding entered into with her at Ghent, feel after such a breach of faith? And how could he, as a commissioner on the negotiation of that treaty, hold up his head before Great Britain, after having been thus made an instrument of fraud and deception, as he assuredly would have been, if the rights of the Indians are to be thus violated, and the treaties by which they were secured violated? How could he hold up his head after such a violation of rights, and say that he was proud of his country, of which they all must wish to be proud?

For himself, he rejoiced that he had been spared, and allowed a suitable opportunity to present his views and opinions on this great national subject, so interesting to the national character of the country for justice and equity. He rejoiced that the voice which, without charge of presumption or arrogance, he might say, was ever raised in defence of the oppressed of the human species, had been heard in defence of this most oppressed of all. To him, in that awful hour of death, to which all must come, and which, with respect to himself, could not be very far distant, it would be a source of the highest consolation that an opportunity had been found by him, on the floor of the Senate, in the discharge of his official duty, to pronounce his views on a course of policy marked by such wrongs as were calculated to arrest the attention of every one, and that he had raised his humble voice, and pronounced his solemn protest against such wrongs.

Mr. C. would no longer detain the Senate, but would submit the following propositions:

Resolved, That the Committee on the Judiciary be directed to inquire into the expediency of making further provision, by law, to enable Indian nations or tribes, to whose use and occupancy lands are secured by treaties concluded between them and the United States, to defend and maintain their rights to such lands in the courts of the United States, in conformity with the constitution of the United States.

Resolved, That the Committee on Indian Affairs be directed to inquire into the expediency of making further provision, by law, for setting apart a district of country west of the Mississippi river, for such of the Cherokee nation as may be disposed to emigrate and to occupy the same, and for securing in perpetuity the peaceful and undisturbed enjoyment thereof to the emigrants and their descendants.

Mr. C. moved that the memorial and resolutions adopted by the council of the Running Waters be referred to the Committee on Indian Affairs, and printed.

As to his resolutions, he knew that, in the regular order of business, they could not be taken up until to-morrow; but, if it met with the approbation of the Senate, he would be as well disposed to act on them to-day as to-morrow.

Mr. CUTHBERT rose and said that he did not propose to enter into the discussion of the subject at this time, or at any time to the extent to which the Senator from Kentucky had gone. It was one which could never be discussed here for any useful purpose. Georgia did not plead before this tribunal. He did not stand here to plead in her behalf. The case was one which did not admit of that minute examination which the gentleman from Kentucky wished to give to it. For what purpose, then, was the address of the Senator from Kentucky? Was it to secure to himself that praise which all had been previously so ready to yield to him—the praise of splendid rhetoric, of studied eloquence, of measured tones, of theatric start, of pathos of manner? He had already the credit of these. No one disputed his unrivalled claim to them. If the gentleman intended to play a theatrical part, the opportunity had been afforded him. "What part does Roscius next enact?"

The gentleman from Kentucky disclaimed any intention to make an attack on Georgia, yet he attacked her in the most insidious manner. He appeared, now and then, to approach Georgia with the most delicate regard to the pride and respectability of the State, as if he intended to withdraw himself from any purpose of assault. But the assault was made, and a wound was made more painful than death. The barb was steeped in venom, and the venom was in the affected candor which hung on the barb. Talk of regard to the State of Georgia, (said Mr. C.,) and at the same moment recall to the recollection of the Senate the story of Mexican wrongs, and the cruelties with which they are accompanied! He regretted that the gentleman from Kentucky should have been guilty of such an inconsistency. He ought to have

avoided a reminiscence so incongruous and inapplicable. Talk of the dignity of Georgia, and taunt her with dealing in gold, and tell her of the gold of Peru and Mexico, and the deeds of cruelty which disgraced the invaders of those devoted countries? He asked not the candor and the respect of the gentleman from Kentucky, if such were their character. Such candor could have no value in his estimation. Talk of delicacy and respect to Georgia, yet tell her that her acts carried on their face a complexion which no epithets could make more odious! Away with all such respect and delicacy. He wanted none such for himself: he accepted none such for the State of Georgia.

The gentleman from Kentucky had reminded the Senate that there was a day of final judgment at hand, when the State of Georgia would have to answer for her conduct to these poor Indians. Did the light of day shine, and not illuminate the gentleman from Georgia? If these Cherokees were to appear at that day of judgment to urge their wrongs against Georgia, where were the hosts of shades of all the original red men on this side of the Mississippi? Upon whom were they to seek revenge? It seemed that Georgia alone was to be held up to general odium, and held up she had been, with all that powerful eloquence, for which he was willing to give the meed to the gentleman from Kentucky, who so well deserved it.

Mr. WHITE addressed the Chair as follows:

Mr. President, I feel it to be my duty to make a few remarks upon this subject, before the present question is disposed of.

When I came to the Senate this morning, I did not know of the intention of the honorable Senator from Kentucky to present this memorial; of course, I cannot be prepared for the discussion of this subject.

Although I cannot hope any thing I may have it in my power to say will have any influence with the Senate; yet as the subject is one of great importance to the United States, as well as to the Indians, I think the remarks of the honorable Senator call for some reply.

The object of the memorial is one I heartily approve. The memorialists are a portion of the Cherokees, residing within the limits of the State of Georgia. They wish to emigrate west of the river Mississippi, and there have a country assigned to them, where they can live under a Government of their own choice, preserve as far as they may think right their own customs, exercise their privileges in endeavoring to promote the civilization of their own people, and having them instructed in the doctrines of Christianity. They wish the United States to furnish them a country to go to, to be at the expense of their removal, and to give them suitable guarantees that they shall never be disturbed in the country to which they may emigrate.

If any additional legislation is found necessary upon this subject, it will give me sincere pleasure to afford my aid in all suitable enactments.

But, in presenting the memorial and resolutions, the honorable Senator has gone into a discussion of the powers of the States, and the manner in which their powers have been exerted over the Indians.

I do not believe any benefit is likely to result to the people of the United States, or to the Indians, from such discussions; but as the subject has been introduced, it is due to the States that at least some of the grounds upon which they have acted should be brought to the notice of the Senate.

What was the condition of the Indians, within the limits of the States, at the close of the revolutionary war?

The people of the United States declared their independence, the revolutionary war in maintenance of that declaration, terminated in a treaty of peace in 1783. The limits and bounds of the States are described in that treaty. Each of the States, within its territorial limits, believed it was free, sovereign, and independent, and that a majority had a right to prescribe whatever rules they pleased for the government of every person, of every age, sex, and color, within their acknowledged boundaries.

Each of these States believe they still possess all these powers, except so far as they have expressly granted them to the federal Government, for the good of the whole.

The articles of confederation gave to the federal Government power to regulate trade and intercourse with the Indians, but contain an express proviso that Congress shall not interfere with the territorial rights of the States.

The first treaty with the Cherokees was made in 1785, and although the articles referred to were then in force, the lands allotted to the Indians included a large portion of the territory of North Carolina.

That State was not inattentive to her rights. She had an agent present when the treaty was negotiated, and he there entered the solemn protest of his State, more than once, against this exercise of federal power.

These protests are still on record, and can yet be produced, at any time the Senate may desire.

The next treaty with the Cherokees was after the present constitution was adopted.

In the mean time, North Carolina had been urged to cede her western lands to the United States, and one motive for this was, that the United States would be the better enabled to regulate their affairs with the Cherokees, it being then believed they all, or nearly all, lived on those lands.

In 1789, North Carolina, yielding to these solicitations, made the cession.

The vacant lands, after satisfying all existing claims against North Carolina, were the property of the United States, who also had the sole power of legislation. The United States, thus owning the vacant soil, and having the entire sovereignty and jurisdiction, and still believing the Cherokees resident upon this territory, made the treaty of Holston, in 1791.

After arguing upon the boundary between the whites and the Indians, there is an express guarantee to the Indians of their lands. This, if my memory serves me, is the first guarantee to these Indians. This guarantee was inserted, not by the mere motion of our commissioner, but by the express instructions of President Washington. The reason of this is obvious to me. General Washington believed, at that day, the country guarantied to the Indians was a tract over which the United States alone had the sovereignty and jurisdiction, and that they were the owners of the soil; that neither the sovereign nor territorial rights of any State were invaded by such a stipulation, and that it would be the means of preventing future encroachments upon the Indians.

We now know by our own executive journal, kept secret until a few years past, that when the first agreements with Indians were made, after the adoption of the constitution, the President himself doubted whether they ought to go through the forms prescribed for treaties; he sent a message to the Senate; it doubted, but eventually seems to have acted upon the opinion that the formal sanction of two-thirds of the Senators present, required to ratify treaties, would be a safe rule as to these compacts or agreements, and the course then adopted has been pursued ever since.

A further illustration of General Washington's views, as to the rights of States, may be given by his conduct in relation to lands within the limits of New York, which were attempted to be secured to Indians by treaty. He condemned this course on the part of the agent, and made it the subject of a special letter now on record.

The tract of country ceded by the State of North Carolina to the United States in 1789, and which was a Territory in 1791, when the Holston treaty was made, continued to be a Territory till February, 1796, when the people residing upon it framed a constitution, and afterwards were admitted into the Union.

In the treaties with the Cherokees subsequent to that period, (and there were many of them, as has been correctly said by the honorable Senator from Kentucky,) the United States seem to have lost sight of the distinction between their power over a country, of which they had both the right of soil and the jurisdiction, and one where the States had the right of soil and jurisdiction, and to have continued the guarantee as inserted in the treaty of 1791.

The States, however, do not acquiesce in the exercise of federal power. The same opinion entertained by North Carolina in 1785 is entertained and acted upon now.

They maintain that they are sovereign and independent communities, within the whole of their chartered limits, upon all points where they have not transferred their powers to the federal Government.

They maintain that these agreements, with a portion of their own population, are not treaties, within the meaning of the constitution; and if they deny that they have ever vested in the federal Government the power, by treaty or otherwise, with any portion of the people within their limits, no matter whether the people are French, German, or Indians, to take from the State one acre of its territory and transfer it to any other people whatever.

They maintain that each State has the right, independently of the federal and all other Governments, to enact such laws for the government of their whole population as, in the wisdom of their own Legislatures, may seem best suited to the interest of all; and that, in the exercise of this power, none out of their limits has the right to interfere.

If the States are right in the operation of these powers, it must clearly follow that they alone have the power to judge whether their laws are adapted to the condition and wants of their people.

Whether the States are correct in the assertion and maintenance of these rights and powers or not, they think they are, and many others think with them. They have acted upon them, and will continue to do so, as I firmly believe. Georgia has extended her laws over her whole limits. Tennessee has, to some purposes, done the same thing; and so has North Carolina and Alabama.

How, then, are these States to be induced to rescind or repeal these laws? Suppose the United States to apply to them for the repeal; they will answer, their laws are approved by their people; they had the power to enact them, and they will not repeal them. What then? Are the United States to apply force to compel the repeal? If they do, and such force is met by an opposing force from the States, we then have presented to our view the most horrid of all spectacles—armed strife between brothers; and, in the midst of it, what becomes of the red men for whose rights the war is waged? They are swept from this state of existence. When the war terminates, there will be no Indians to be protected by the United States, or by these States individually.

The time has arrived when we must all speak out plainly as we think. These people, if they remain where they are, must submit to the laws of the respective States. They cannot exist in the States as a separate and distinct community, governed by their own customs and laws. Some of them are civilized and enlightened; they will make useful and respectable members of any community. They may still remain where they are if they choose. But that is not the condition of the class of the Indian population. They are poor, ignorant, and uninformed.

Residing where they now do, certain misery and ruin await them. If they will remove beyond the Mississippi, out of our States and organized Territories, they may be preserved. There they may progress in that civilization which has commenced; they can, as freemen, have a Government of their own choice; their interests can be promoted and their rights protected by the United States, without collision with any State. Who now doubts that it is their interest to do so? Few men can doubt it who will take pains to acquire correct information, and then duly consider the subject. I believe the time has nearly arrived, and will certainly soon have arrived, when there will be but one opinion upon this subject throughout our country.

The policy of inducing our Indians to remove west of the Mississippi did not originate with this administration. As early, at all events, as 1804, it was the policy of Mr. Jefferson. It has been the policy of every succeeding administration; and, during the last administration, it had, in the then Secretary of War, one of its ablest advocates. The great distinction between this and prior administrations consists in the present having succeeded to a much greater extent in carrying into effect what all, from the time of Mr. Jefferson, desired to accomplish.

The honorable Senator from Kentucky thinks, as the State of Georgia has shut her courts against these people, we ought to open those of the United States to them. And, if we can, let me ask, Mr. President, of what practical benefit will such a provision be? Useless. Encourage a poor Indian, living surrounded by whites unfriendly to him, to commence suit in the federal circuit court, and then follow it here to the Supreme Court, to assert his title to 160 or to 640 acres of land, and, by the time the cause is decided, he and his family will have starved to death.

Instead of this, let us encourage them, by all the means in our power, to remove. Every day they remain the means of the United States to furnish them comfortable homes, west of the Mississippi, are lessening. Other tribes are going and getting their choice of the country. Let those be encouraged to remove speedily, provide funds for their removal, for their comfortable support for a season. Furnish them a permanent home, guaranty it by all the solemnities which can be deemed necessary, and then faithfully observe this guarantee.

Upon these points, if additional legislation is found to be proper, I am willing to go to any extent which may be deemed necessary, and which is not inconsistent with what is due to the interests of the great body of our community.

Mr. BENTON rose, not for the purpose of taking part in the little discussson going on, but of calling up a voice far more powerful than his own—that of Mr. Jefferson. The gentleman from Georgia [Mr. CUTHBERT] had well drawn the distinction between arrangements made with the Indian tribes under our protection, and treaties made with foreign sovereigns. It was very clear that those things called treaties with the Indians were not treaties recognised by the constitution of the United States. This was the ground also taken by the Senator from Tennessee, originating with General Washington, when he had doubts whether he could with propriety communicate such treaties to the Senate of the United States. It was true that the vote on them was taken in the usual form prescribed in the constitution for ratifying a treaty with a foreign Power—that is, by a majority of two-thirds; but this simple circumstance could not

possibly alter their nature. When the word treaty was put in the constitution, that treaty only was meant which was known to the laws of nations. In the first place, it was a treaty that must be made with a foreign nation; and, in the second place, it must be with a nation that had the power to contract a treaty. Were these treaties made with the Indian tribes, such as were recognised by writers on national law? He denied that it was permitted to statesmen to take such shallow views of a subject so exalted as treaties between two sovereign Powers. How could these treaties with the Indians residing within the limits of a sovereign and independent State be considered in the light of treaties recognised by the constitution? Was it to be supposed that one of the States of this Union would ever have put it into the power of the federal Government to barter away a portion of her territory? Look at the wandering bands of the Sioux, Kickapoos, Sacs, and Foxes, with whom we have made similar treaties, and who do not possess even a blanket. Were they nations with whom treaties could be made under the treaty-making power given by the constitution? Can we, asked Mr. B., make treaties which set at defiance the constitution and laws, by giving away the territory, and interfering with the internal policy of a sovereign and independent State? It was a great and vital error of those judges who had declared these arrangements with the Indians to be the same things as the treaties with foreign nations, that the federal Government can make under the forms prescribed in the constitution. It was a great error to suppose that a treaty made with the Yancton band of the Sioux (so poor, so miserable, and so destitute, that there is not a blanket in the tribe, but they must protect themselves from the inclemency of the season with a buffalo robe) was the same as that made with a foreign and independent nation. Let it be recollected that the same arrangement made with the southern Indians, miscalled a treaty, may be made with the miserable and degraded Yancton band of the Sioux; and then let gentlemen say whether, by any stretch of imagination or language, these arrangements can be called treaties under the treaty-making power conferred by the constitution, and described by all the writers on national law. He begged pardon of the Senate for detaining them while he said these few words. His only purpose in rising was to call to their attention the doctrines of Mr. Jefferson on this subject; and without further remark he would proceed to read a few sentences on the treaty-making power.

"To what subjects this power extends has not been defined in detail by the constitution; nor are we entirely agreed among ourselves. 1. It is admitted that it must concern the foreign nation, party to the contract, or it would be a mere nullity, *res inter nos alios acta.* 2. By the general power to make treaties the constitution must have intended to comprehend only those subjects which are usually regulated by treaty, and cannot be otherwise regulated. 3. It must have meant to except out of these the rights reserved to the States; for surely the President and Senate cannot do, by treaty, what the whole Government is interdicted from doing in any way."

The purpose for which he had risen was to make the language of Mr. Jefferson known to the very respectable delegation of the Cherokees, who were then listening to the debate. He had known many of the Cherokees well, had enjoyed their hospitality, could bear testimony to the moral worth and excellent character of many of the nation; and his most anxious wish was to see the whole of them removed to a country where they could live happily in the enjoyment of their own laws and customs, undisturbed by the neighborhood of the whites. He wished, also, to make them understand that they were deluding themselves when they supposed that arrangements made with their tribe could be properly considered treaties, as known to the constitution, or that they could possibly exist as an independent community within the limits of a sovereign State,

Mr. CLAY said he could assure the honorable Senator from Georgia that nothing was further from his purpose than to make any display on this occasion. That he always left to others, and by the judgment of the Senate he was willing to abide, whether the honorable Senator himself had not been guilty of that which he imputed to others. For, after addressing the Senate himself, some time, he had said that he did not intend arguing the question, that Georgia would not appear before the Senate or any other tribunal. Now, Georgia might be content to do that, but could Congress, could honorable Senators reconcile it with their duty, with their responsibility, to coldly contemplate the violation of numerous treaties, to witness the destruction of a people under the protection of the United States, and to let that injustice which had been inflicted on these unfortunate Cherokees be perpetuated without the slightest notice on their part?

The gentleman from Tennessee [Mr. WHITE] had remarked that they were all unconstitutional treaties; that they had no binding force as treaties; that General Washington was mistaken; that every succeeding administration was mistaken; that General Jackson himself was mistaken, in 1817, in regard to these treaties. Now, if they gave the argument of the honorable Senator from Tennessee its full force, what was the consequence? What did he (Mr. C.) offer? He said, merely to open the question to the court. If they had no validity, if the question which was sent to the Judiciary did not rest upon treaties, they could vindicate no rights under them. Why had Georgia, if she believed there were no treaties, made provisions in her late act to which he had referred? Why shut out the rights of the Indians under the treaty? Why, if she was convinced of the unconstitutionality of the treaties, did she not allow them to be submitted to the federal Judiciary, which was bound to declare that they were not obligatory and binding, if unconstitutional? Why has she studiously precluded the possibility of a review in the Supreme Court of the decisions of the local tribunals? But the gentleman had told the Senate that the treaty of 1791 was the first that guarantied to the Cherokees their lands, and that President Washington doubted whether it was necessary to submit it to the Senate. It might be true, at the commencement of the Government, when every thing was new and unfixed, that there were doubts; but General Washington decided that it was a treaty, and laid it, with his doubts, before the Senate, who decided them, and the treaty was ratified by and with the consent of the Senate. And from that day those doubts have remained dispelled. He was indebted to the honorable Senator for the historical fact which he (Mr. C.) had not before pressed, that this very guarantee which secured to the Indians the undisturbed possession of their lands, in the treaty of 1791, was inserted by the express direction of the Father of his Country. And the Senate was called upon now, not merely to violate the solemn obligations which the whole nation had contracted, but to violate the provision which had been inserted at the instance of the venerated Father of his Country!

The honorable Senator has told this body that the treaty of 1791 was the first in which there was any guarantee. If the gentleman meant to say it was the first in which there was any express guarantee, he (Mr. C.) would admit it. But, in the treaty of 1785, if it was not expressed, was it not implied? What was that clause marking the boundaries of their territory? That, in the same treaty, which places the Indians under the protection of the United States, and excludes them from the

authority of any other sovereign? And that which outlaws citizens of the United States who intrude in their territory? What was the meaning of those clauses, if they did not, by implication at least, guaranty their rights, their property, and the peace of their country? But the gentleman says that in asserting the guarantee of 1791 there was a mistake: it was supposed that it was without the limits of North Carolina and other States; a mistake which ran through all the treaties from that time down to 1817, which renewed and enforced the pre-existing treaties. So that General Jackson himself had been acting under a mistake when he signed the treaty of 1817. Is it possible that, if a mistake were committed as early as 1791, it would not have been corrected in some of the various treaties negotiated as late as 1817?

The Senator had said also that the States had a right to extend their laws over all the territories and people within their limits, as defined by the treaty of 1783. Why, that was the very question under consideration—the identical question to be submitted to the Judiciary. He (Mr. C.) contended that the States had no right to extend their laws over that portion of the territory assigned to the Indians, or over the Indians dwelling upon it. And that is the exact question which his resolution proposes to be submitted to the determination of the Judiciary, and which the late act of Georgia carefully shuns.

But the Senator from Tennessee had asked, "what will the poor Indian, with his six hundred and forty acres of land, do contending for his rights in a court of justice?" Why, he (Mr. C.) would admit that his condition would be miserable enough; but it was all they could do for him; and they were bound to do all they could under the constitutional power they possessed to maintain his rights. But, he would ask, what was to prevent these Indians, in their corporate or collective character, from bringing their grievances before the courts? Nothing. And that they were competent to this, we had only to look at the state papers which had emanated from them—and which did them immortal credit—to be convinced. The Senator from Tennessee asked "what the States would do? Would they array the federal power against the power of the State Governments, and thus produce that condition of things which must result in the Indians being stricken from the face of the earth?" Did not the honorable Senator remember the period when a State of this Union was actually arrayed and marshalled to defend its interpretation of the constitution? He was hearty in the support of the force bill; he did not stop to look at the possible consequences of a civil war. He (Mr. C.) gave it his reluctant and most painful support. He would gladly have turned the bitter cup from his lips, but he felt it to be his duty to sustain the authority of the general Government; and, after giving to the subject the most solemn and serious consideration, he felt himself constrained to sustain that measure. And he went along with the Senator from Tennessee upon the principle, now denied by him, that the federal authority must maintain its dignity. He went upon the ground, now abandoned by the Senator from Tennessee, that no State ought to array itself against the constitutional powers of this Government.

How was the fact up to the period of 1829? The gentleman from Tennessee tells us the true policy of this Government is to send these poor creatures beyond the Mississippi, and that there is no impediment in the obligations of subsisting treaties. Never, until the new light burst upon us, that hundreds of Indian treaties, made during a period of half a century, under almost every administration of the Government, concluded and ratified with all the solemn forms of the constitution, and containing the most explicit guarantees and obligations of protection to the Indians, and of security to their possessions, were mere nullities, was it supposed competent to effect a compulsory removal of the Indians beyond the Mississippi. It is true that the policy of removing them has been long entertained; was contemplated by Mr. Jefferson; but it was a free, voluntary, and unconstrained emigration. No one, until of late, ever dreamt of a forcible removal, against their consent, accomplished either by the direct application of military power, or by cruel and intolerable local legislation. He wished that they would voluntarily remove. He believed that absorption or extinction was the only alternative of their remaining in the bosom of the whites. But they were a part of the human race, as capable as we are of pleasure and pain, and invested with as indisputable a right as we have to judge of and pursue their own happiness.

It is said that annihilation is the destiny of the Indian race. Perhaps it is, judging from the past. But shall we therefere hasten it? Death is the irreversible decree pronounced against the human race. Shall we accelerate its approach because it is inevitable? No, sir. Let us treat with the utmost kindness and the most perfect justice the aborigines whom Providence has committed to our guardianship. Let us confer upon them, if we can, the inestimable blessings of Christianity and civilization, and then, if they must sink beneath the progressive wave of civilized population, we are free from all reproach, and stand acquitted in the sight of God and man.

The Senator from Tennessee has left the Senate under the impression, no doubt unintentionally, that three other States had advanced as far as Georgia in the exercise of a jurisdiction over the Indians and their property. But if he were rightly informed, this was far from correct. North Carolina had exercised no such jurisdiction. She had not touched a hair upon the head of any Indian. Tennessee had extended her laws to the Indian country, for the sole purpose of protecting the Indians, and punishing the white intruders. Her upright judges and tribunals concurred, unanimously, if he were rightly informed, in supporting the Indian rights. No State, he believed, but Georgia, had seized upon the Indian lands, and distributed them among the whites. From the commencement of our independence down to this time, there was not another instance of such seizure and appropriation by any other member of the confederacy.

Mr. C. assured the Senator from Georgia that he had not sought for the position in which he was placed. It was sought of him. He was applied to by the unfortunate Cherokees to present their case to the Senate. And he should have been false and faithless to his own heart, and unworthy of human nature, if he had declined to be their organ, however inadequate he feared he had proved himself to be.

On the whole, then, said Mr. C., the resolutions proposed an inquiry into the suitableness of making further provision for the Cherokees who choose to emigrate beyond the Mississippi. And in regard to those of them who will not go, but who prefer to cling to the graves of their forefathers, and to the spot which gave them birth, in spite of any destiny impending over them, the resolution proposes that, since Georgia has shut her courts against them, we should inquire whether we should not open those of the federal Government to them, and ascertain whether, according to the constitution, treaties, and laws, we are capable of fulfilling the obligations which we have solemnly contracted.

Mr. CUTHBERT, in rising again, had no intention to reply to the Senator from Kentucky. The true question was certainly the one which that gentleman presented: the question was—what was due to humanity, to the human race, to justice, and to the best feelings of the human heart? He was ready to meet the gentleman

at any time on those questions. But would the Senator speak of the negotiations at Ghent, and apply them to our negotiations with Indian tribes? The Senator is not serious; he mocks at us, said Mr. C., when he does so. Such negotiations as with a foreign Power could neither be held with savage tribes, under the treaty-making power the gentleman spoke of, nor consistently with the obligations which bound this Government not to interfere with the territory of a sovereign State. Would the gentleman dare to outrage American feeling by permitting the British negotiators at Ghent to prescribe rules for the government of a population within our borders? Would he, as an American negotiator, dare to permit a foreign nation to interfere with our internal regulations?

The memorial of the Cherokees was then referred to the Committee on Indian Affairs, and Mr. CLAY's resolutions laid on the table for one day.

POST OFFICE BILL.

On motion of Mr. EWING, the Senate proceeded to the consideration of the bill reported by the Committee on the Post Office and Post Roads, providing for the reorganization of the Post Office establishment; when

Mr. GRUNDY moved to amend the bill by striking out the provision creating a new officer, to be called the Solicitor of the Post Office, and transferring the duties to be performed by him to the Solicitor of the Treasury.

Mr. EWING assented to the amendment. It was supposed, he said, by the majority of this committee, when they proposed to create this new office, that its duties could not be conveniently discharged by the Solicitor of the Treasury; but he had learned this morning from the chairman of the committee, that he had conversed with that officer, who was willing to undertake those new duties, on being allowed additional clerks.

The amendment was then agreed to.

After some verbal amendments, Mr. GRUNDY moved further to amend, by striking out the provision restricting the Postmaster General from making extra allowances to contractors to more than double the amount of the postage accruing on the route.

Mr. EWING said that he could not consent to have this provision stricken out of the bill, for he looked upon it as a very important one. He entertained the opinion that a provision ought to be inserted in the bill relative to the establishment of a mail between Mobile and New Orleans. Let the Postmaster General advertise the contract, that proposals may be made; and, if accepted, they should be strictly enforced. What had hitherto been the condition of things in regard to that mail route? Why, when there was a daily mail established between those two cities, there were no less than one hundred and fifty failures, although forty thousand dollars had been expended; and not one dollar was deducted from the pay of the contractor, for the non-performance of the contract. The extra allowance amounted to from twenty-five to thirty thousand dollars. Now, he was perfectly willing to allow, if the public service required an increased number of trips on a route, that they should be performed; but he would provide by law that public notice should first be given, in order that there might be competition for the contract, so that the service to be performed might be taken, if possible, out of the hands of a favorite.

He had no doubt that, if the contract to carry the mail between Mobile and New Orleans was fairly advertised, the mail might be carried daily for $25,000 a year. But he might be mistaken in that calculation. At all events, let the contract go into hands that would perform it. He was convinced that great difficulty would arise, if they did not restrict the Department to a certain line of duty. And he was not at all satisfied that the report which had been made to Congress relative to the Post Office Department, would work a remedy for all the evils which existed in it. Those gentlemen who had been on the committee found their labor so great and overwhelming, that they had, in consequence, not been able to render sufficient services to their respective constituents. He was sure that their task had been such, that no individual, who had been thus engaged, could feel any desire to embark in it again. He would repeat, that he could by no means consent that this restricting clause should be stricken out. In all the new States, and in every portion of the country where it was necessary to expend more money on routes, the Postmaster General might go to any reasonable extent. He might expend $500 when he was in the receipt only of $100 for postages. This might be, in some cases, necessary. But he (Mr. E.) would not be willing to allow extra allowances on the services performed, or assumed to be performed, to more than double the amount of the postages received on a route. There were some services assumed to be rendered, on unimportant and obscure routes, which could not be clearly established; therefore it was necessary that a limitation should be inserted in the bill, to prevent the misuse of the public funds. Now, it was easy to ascertain what was done on the route between this city and Baltimore, or between that place and Philadelphia, and a corrective could be promptly applied if required. The case, however, was altered in regard (as he had said before) to obscure routes. This fact induced the majority of the committee to introduce the clause in question in the bill.

Mr. GRUNDY thought there was great danger of carrying legislation too far. If (said Mr. G.) you say that the Postmaster General shall not make these extra allowances, or may not, under any circumstances, change the amount of compensation to contractors, extreme inequality will exist throughout the country in the facilities of the mail. You will see that he will estimate, in his own mind, the maximum of compensation, and come to it in the first instance. As to this New Orleans and Mobile route, to pass a law for a daily mail on it, it might be all very well, if there was any chance of stopping there. But it would be a dangerous precedent to make this single case the subject of legislation, and thus enable every member of Congres to come here and insist on having a similar law passed for the benefit of his section of the country.

By keeping this provision in the bill, you might as well say that no extra allowance shall be made at all. It would be legislating in the dark, and equivalent to saying that, because evils have existed, no more good shall be done.

Mr. BIBB hoped the amendment would not prevail, otherwise the same sort of favoritism which had prevailed would be perpetuated.

Mr. SOUTHARD adverted to the letting of contracts for carrying the mail, and observed that the "lettings" were to be according to advertisement which the Postmaster General would cause to be published; and founded on his knowledge of the country, its wants, and of the routes in it. When he was about to make a contract for four years, viz: for carrying the mail between Washington and Baltimore, he draws the advertisement according to the present state of things. And thus the Postmaster General had an opportunity of exercising all his discretion and knowledge in regard to the accommodation of the public. But it was possible that, on a few of the mail routes, during the continuance of the contracts, there might be some changes necessary as to the manner in which the mail should be carried on a given route, or in consequence of an alteration in the face of the country. The majority of the committee were averse to laying such restrictions on the conduct of the Postmaster Gen-

eral as would operate against the interests of the country. They therefore left it to him to exercise his discretion in regard to what changes he might deem necessary for the public convenience. The committee were prompted only by a desire to put the Postmaster General under such restrictions as would put an end to favoritism, or any other improper conduct in the Department. Now, there was a provision in the bill, that, if it should be necessary, in the opinion of the Postmaster General, to make any change in the route, he should be required to renew the advertisement, and make a new contract with regard to the route. The majority of the committee were of opinion that there ought to be a new let and a new bid, in order to afford the Department an opportunity of obtaining as low a contract as possible. There might be some small improvements made in regard to routes, without having recourse to a new contract. And it seemed to the committee that the Postmaster General should be vested with some slight discretion, but limited in such a way as to promote the public interest, consistent with that economy which ought to exist in the Department. With regard to making extra allowances, he would observe that there was a provision in the bill on that subject. The committee conceived that there should be some limitation made in reference to the amount of compensation that should be allowed to contractors for extra services; and it occurred to them that the provision which they had incorporated in this bill was one which would furnish a good and safe limitation—one which was sufficient, at least, to vest in the discretion of the Postmaster General. The provision was this—that the Postmaster General should not, in any case, give this extra accommodation to more than double the amount of the postage on the route. This power would give the Postmaster General an opportunity of doing all that was requisite for the public interest. Mr. S. trusted the amendment of the Senator from Tennessee would not prevail; for if it did, then the Postmaster General could act as he had hitherto done. He hoped the provision would not be stricken out.

Mr. PORTER said it was perhaps true, as the honorable Senator from Tennessee had observed, that there was danger that, in our anxiety to correct one class of evils, we should fall into another equally to be deprecated; but all general remarks of this kind were only useful in inspiring caution; they could not prevent action; and at last every measure was to be decided on the considerations which immediately belonged to it. The amendment proposed by the honorable Senator proceeded on the idea that the section limited too much the power of the Postmaster General, and took from him a discretion which it was salutary he should possess. Mr. P. said he too found fault with this section of the bill; but it was precisely for an opposite reason from that which seemed to operate on the honorable Senator's mind: it was because too much discretionary power was still left in the hands of the head of this Department.

All legislation, said Mr. P., is but a choice of inconveniences; and we have now presented to us one of these two: first, whether we will subject particular portions of the country to the inconvenience which they may sustain by not having the transportation of the mail changed during the term for which a contract is made to carry it; or whether we shall trust the power of varying the contract, and granting extra allowances, to the Postmaster General. On the choice to be made between these two evils, Mr. P. could not hesitate for one moment. The privations to which any part of the United States might be exposed, by changes in the roads, or an increase of population during the short period of four years—changes, too, in the greater number of instances, not taking place until perhaps half the duration of the contract had expired, were of a very small consideration; so small, indeed, that they never should have authorized the granting so dangerous a power in the hands of any one man. Against these trifling inconveniences, proceeding from a want of perfect accommodation to a few parts of the Union, there were to be opposed those which resulted from vesting a power in the hands of a public officer, liable to great abuse, and which, it was admitted on all hands, had been grossly abused. Under the operation of it, we have seen the law which required public notice to be given of the letting of contracts, in order that fair competition might be invited, become a mere farce—worse than useless—a cloak to cover favoritism, and hide a wasteful expenditure of public money.

But, Mr. P. continued, although there was no doubt on his mind that the permanent legislation of the country should be fixed on the principle just mentioned, he doubted the propriety of extending it to the existing contracts. They had been entered into in relation to such power, and it was extremely probable that many of them had in view the exercise of it by the Postmaster General. For example, there was the route between New Orleans and Mobile, on which the mail was now transported but three times a week, and it was indispensable that a change should be immediately made in it. The trade of the whole, or nearly the whole, of the valley of the Mississippi, it was well known, centered in the latter city. Its exports last year amounted to the enormous sum of thirty-five millions of dollars, and a rapid and regular communication with it was called for, not merely by the interests of its mercantile community, but by those of every portion of the Republic. New York and Cincinnati were as deeply interested in the reformation of this abuse, as the merchants of Canal street in New Orleans were.

Mr. P. said it was now late, and the ordinary time of adjournment had arrived. He should, before the Senate met to-morrow, prepare an amendment in conformity with the views he had expressed, and which he hoped would meet the approbation of the Senate.

The Senate then adjourned.

THURSDAY, FEB. 5.

MINT AT NEW ORLEANS.

On motion of Mr. WAGGAMAN, the Senate proceeded to the consideration of the resolution submitted by him, for the appointment of a select committee, to inquire into the expediency of establishing a branch of the United States mint at New Orleans.

On motion of Mr. CALHOUN, the resolution was amended, so as to add to it, "and also another, somewhere in the gold region of the South Atlantic States."

The resolution, as amended, was then agreed to; and, on motion of Mr. WAGGAMAN, the committee was ordered to consist of five members.

The Senate having balloted for the committee, it appeared that Messrs. WAGGAMAN, KING of Georgia, BENTON, CALHOUN, and MANGUM, were appointed.

PURCHASE OF PICTURES.

On motion of Mr. PRESTON, the Senate proceeded to the consideration of the joint resolution authorizing the purchase of certain pictures now in this city, for the President's house.

Mr. HILL objected to the bill, as involving an unnecessary expenditure, and moved to lay the same on the table; which was not agreed to.

The question being on ordering the bill to be engrossed for a third reading, Mr. HILL asked for the yeas and nays; which were ordered.

Mr. CUTHBERT made some remarks in support of the bill, and thought the purchase of those ornamental

pictures were worthy the expenditure, and would be subjects of just pride to the nation; and he would be glad to see the honorable member from New Hampshire yield his opposition to the bill.

Mr. POINDEXTER moved to fill the blank left for the appropriation with "any sum not exceeding $40,000."

Mr. PORTER objected to any sum being inserted in the bill at all. He thought, if the pictures were worthy of being purchased, it was much better to leave the price entirely at the discretion of the President.

Mr. PRESTON observed that the value affixed to them was about $48,000. He thought the sum suggested was quite sufficient, and had no objection to it.

Mr. POINDEXTER said he had examined these pictures, and $40,000, it was thought, would cover the entire cost; for some of them ought not, and he believed would not be purchased.

Mr. LEIGH also was opposed to inserting the sum; he would prefer leaving it to the President's discretion. The motion to insert was agreed to.

The question on the engrossment of the bill was decided in the negative by a vote of yeas 20, nays 22, as follows:

YEAS—Messrs. Bell, Benton, Cuthbert, Ewing, Goldsborough, King of Alabama, Leigh, Linn, McKean, Mangum, Poindexter, Porter, Preston, Robbins, Robinson, Silsbee, Smith, Tallmadge, Waggaman, Wright—20.

NAYS—Messrs. Black, Brown, Buchanan, Calhoun, Clay, Frelinghuysen, Grundy, Hendricks, Hill, Kane, Kent, King of Georgia, Knight, Morris, Naudain, Prentiss, Shepley, Swift, Tipton, Tomlinson, Tyler, White—22.

POST OFFICE BILL.

The Senate then resumed the consideration of the bill to reorganize the Post Office Department.

Mr. GRUNDY having moved to amend the bill for reorganizing the Post Office Department, by striking out the following words: "That no increase of compensation shall be allowed to more than double the nett amount of postages received on the route"—

Mr. EWING said that he could not consent to the proposed amendment. Though the other guards which this bill, if it became a law, would throw around the public treasure were important, and he hoped, in the main, efficacious; yet all would be insufficient unless this branch of executive discretion were lopped off. By the law as it now stands, the Postmaster General is authorized to order additional service to be performed on any mail route, to any extent which he may see fit. It is true he is required to confine the compensation for such service within the limit of its just proportion to the compensation which is given by contract for the services performed by contract on the same route. But it is equally true that this instruction has been wholly disregarded.

The provision in this bill, which it is proposed to strike out, will check if it do not remedy the evil. It will not, without an amendment, which I intend to propose if that of the honorable chairman be rejected, afford a full and efficient remedy. But it will prevent the practice of giving enormous extra allowances on obscure and unimportant mail routes, as is now the practice—so obscure and so unimportant that the contractor may wholly omit to perform the extra service, and no man will trouble himself to complain of it, because the service is desired by no one.

A case of this character came under the observation of the committee. A person by the name of Clark contracted to carry the mail from Cumberland to Bedford, and from Bedford to Blair's Gap, in Pennsylvania, for four years from the 1st of January, 1832, weekly on horseback, at $275 a year. James Reeside, by private negotiation, and by obtaining the recommendation of two other contractors, one of whom was his partner, got an order to carry the mail on the same route triweekly, in four-horse post coaches, at $4,500 a year; and he afterwards got an extra allowance of $2,911 a year for carrying it daily on part of the route.

He never performed his first contract; but, nevertheless, he was paid the full amount, and his pay commenced twenty-seven days before he commenced his service, and thirteen days before his contract was concluded. He also received his extra pay, though he performed no part of the extra service. This provision of the bill which the honorable chairman asks the Senate to reject, is intended to guard, and will guard, against similar abuses on unimportant routes. On those routes, for example, the nett amount of postages at the intermediate offices; that is, including Cumberland, Bedford, and Blair's Gap, which are the termini of the two routes, and which are upon other large and important post roads, fall short of $300 a year. The nett amount received on one of them, that from Cumberland to Bedford, on which $3,750 was expended, was less than $30 in the year ending the 31st March, 1833. So that the amount paid upon this route was about ninety times that which was received on it; and this did not connect any important mail routes. The Postmaster at Bedford testified that the mail carried on it weighed, on an average, less than five pounds, and the letters numbered is less than three. It is to prevent abuses such as this that the provision is inserted in the bill, and I hope it will be retained.

If this restriction meet the approbation of the Senate, I intend, said Mr. E., to propose another, forbidding the Postmaster General to make any extra allowance upon any mail route which shall have been established for ten years befor the execution of any existing contract. This will leave him at liberty to make such allowances upon all the new routes, where the population and business of the country are rapidly increasing, and with them the receipts for postages, and the demands for mail facilities; and it will prevent him, in all the older settled portions of the country, where population and business advance more slowly, from advertising differently from the manner in which he intends the mail shall be carried, and so giving the contract to favored individuals without competition.

But the honorable chairman says that this bill requires the Postmaster General to advertise as he intends the mail should be carried, and he is of opinion that that will have a tendency to put down this species of favoritism, and restore competition. Now, sir, I am by no means proud of this provision in the bill; it must be here, but I regret it. The law is the same precisely, now, and has been the same ever since it required an advertisement; and it were about as well to provide in this bill that the Postmaster General should be a correct and vigilant officer, or that he should obey the law, and regard his official duty, as to insert this provision. Yet, let it pass. If there be reform in the General Post Office, it must come from some other source than that provision. The restriction contained in the original bill, and the amendment which I propose, seem to me necessary to effect that which seems to be the object of us all—the subjection of this officer to the restraints of law in his official engagements.

Mr. GRUNDY said he saw clearly that the amendment which he had offered would not be adopted; therefore, it would be useless in him to consume the time of the Senate by entering into a discussion in regard to the proposition. What, he asked, were the great evils now complained of? Why, they were self-evident—improvident extra allowances. Heretofore, the Postmaster General had not advertised all the services which, in his judgment, were necessary to be performed throughout

the United States. Now, by the provisions of this bill, that was expressly required; and also that the Postmaster General should report to Congress, within ten days from the commencement of every session, what allowances he had made, the reasons for them, and the services for which they had been allowed. Now, if that were done, it would, in his opinion, be found to be a sufficient check against the evils complained of; and it was on that ground that he had been induced to offer his amendment. The limitation to double the amount of postages on a route was very uncertain—it was a mere nominal thing. The honorable Senator proceeded to show that it was as he had stated, by referring to cases where the arrival of certain mails on different routes depended on contingencies, and therefore those waiting their arrival were necessarily delayed. These, then, were unforeseen occurrences, which could not be guarded against; and, consequently, discretion ought to be left to the Postmaster General to send on the mail, otherwise it would have to lie until the regular recurrence of the mail, when it could be forwarded. The Senators from Ohio and New Jersey [Mr. EWING and Mr. SOUTHARD] had said that, when it was necessary to make any change in a route, the contract should be re-advertised. Now, let Senators look at that proposition. Could any one suppose that a contractor would invest his property under such a liability, when the Postmaster might change the route two or three times in four years? Certainly he would not. And, supposing he would, was it at all likely that he would not require to be much better paid than he now was for carrying the mail? Undoubtedly. It was necessary, he (Mr. G.) thought, that as much security and certainty as possible should be given to the contractor, and then he would have a greater inducement to make a low bid. He did not differ from the Senator from Ohio upon the principle; for he was as anxious as the gentleman himself could be to guard against the improper exercise of discretion on the part of the Postmaster General; but he believed that, without some were left to him, the machine would not work well.

Mr. PORTER said he was convinced of the injudiciousness of allowing extra compensation to contractors. And in consequence, he had yesterday prepared a proposition relative to this subject, which it had been his purpose to submit to the Senate to-day; but, having consulted several of his friends as to it, he had yielded his prepossessions in favor of it to their better judgment, and therefore should not offer it now, though he must confess he still entertained the same opinion in regard to the matter. He looked upon the inconveniences, great as they might be, which had been depicted by honorable Senators as likely to result to many parts of the country, as not worth consideration, compared with the evils that must continue to flow out of the practice of making extra allowances. It was a discretionary power too great to be lodged in the hands of any officer of the Government. The Postmaster General was subjected to many temptations; and every manoeuvre and artifice that could be thought of by man would be put in motion to win from him money in the shape of extra allowances, which this discretionary power, if conferred on him, would enable him to disburse. He (Mr. P.) trusted that the discretion which was vested in the Postmaster General would be withdrawn from him.

Mr. EWING said that the proposed change in the law mentioned by the honorable chairman did not, in his opinion, dispense with the necessity of the amendment.

The honorable chairman says that the present bill requires the Postmaster General to advertise for proposals for all the services which he may consider necessary at the time of the advertisement, and that heretofore it has not been his practice so to advertise. I am not, said Mr. E., gratified with this provision, which the honorable chairman considers as so efficacious. It does not change the law in any respect, and it remains yet to be seen whether it will change the practice. The law is now precisely as imperative upon the Postmaster General as it will be when this provision is inserted, to do precisely the same thing. It now requires him to advertise, and thus give notice of all proposed contracts: the present bill requires him to advertise truly. And this is all the difference. It is humiliating to be compelled to insert a provision of this kind in a law, not merely to say to one of our highest executive officers that he shall give notice, but to say, by way of a new guard, and after long experience, that he shall give true notice of the contracts which he intends to enter into. I hope to see the day, sir, when a stain of this kind can be safely wiped out from our statute books. It is thought now to be necessary—it certainly is necessary, if it will be availing; for those proposals for contracts have, for five years past, been published very falsely, and, if the injunction to publish them truly be obeyed, it will certainly work a very important reformation. But a general provision, that the Postmaster General should obey the law, and do all the duties of his office as a vigilant officer, and as an honest man, would be similar in its character to that referred, and, being more comprehensive, would, if it were obeyed, be more useful.

These improved bids, as they are called, and which are encouraged by the practice of advertising for an amount of service which is known at the time to be insufficient, are the cause of very great and shameful abuses. It is, indeed, a mode of getting contracts into the hands of favored individuals, without competition, and surrendering to them so much of the public money as they may desire, or as it may be thought proper to give them, without requiring of them corresponding service. Many of those improved bids, as they are called, on which very large sums of money are paid, are so vague and indefinite that they cannot be shown, in law or in fact, to require any service which can be ascertained or reduced to any fixed or definite standard. The most common *formula* for an improved bid, after stating the bid pursuant to the advertisement, is this: "Or I will so increase the speed, as to connect at ——, with the line from ——, at the additional compensation of ——." And this increase of speed generally turns out to be no increase at all, and the connexion which it is proposed to make is either made by the advertisement for proposals, or if not so made, is generally not made at all. Now, if we heap law upon law, we probably shall not change this course of things, until the Department is placed under other guidance, or a system of accountability fixed upon its officers, which will bring them before Congress yearly, and compel them to show what use they have made or are making of the public money; or do what by this amendment I ask should be done—strip the Postmaster General at once of this much-abused discretionary power.

Mr. CLAY said that he would make but a few observations; the bill being in such good hands that he would not have ventured to say any thing upon this subject, were it not that he considered these "extras" of such great importance, that it became the duty of every man to contribute what information he might possess, and to express his sentiments respecting them.

He was altogether opposed to the extra system, in all cases, and under all circumstances; for it had been the source of all the abuses which existed in the Post Office Department. When the allowance of extras (said Mr. C.) is rendered a discretional power, as it has hitherto been in this Department, what is to prevent the suggestion of all sorts of alterations for the purpose of obtaining extra compensation, or, in other words, for the purpose of making money? Alterations, oftentimes uncalled

for, and as frequently unnecessary, will not fail to be proposed; it will happen that an alteration on the original contract is proposed, as to speed, or time, or some other purpose, in which it may be made to appear that some real improvement is to be effected. Now, such alterations being once suggested, how does the case stand? The proposed alteration is never put to the test of competition. On the contrary, it forms the basis of a private arrangement between the contractor and the Department. No competition is invited, and consequently there is no test, no criterion as to the real value, if any, of the proposed alteration. The whole business (which may assume greater importance than the first contract) is left entirely as a private arrangement between the contractor and the officer of Government; and thus, while the law has carefully provided to throw open the contracts, and make them the subject of free competition, the system of extras leaves a greater power than that of forming the original contract, to the sole discretionary power and private arrangement of the public officer!

It is, and always ought to be, the policy of wise legislation to limit as much as possible, and even to annihilate, if it be possible, the existence of discretional powers. Contrary to the dictates of this wise policy, the discretional power, and, at the same time, the abuse of that power, has been carried to a boundless extent in this Department.

When the individual who suggests an alteration is the very person who profits by the alteration; when he is interested in getting more money by the suggestion of alterations; then what can be looked for but abuses the most foul and enormous? It is in the nature of men, under such circumstances of strong allurement, to become guilty of abuse. Such a discretion, therefore, if left to any Department, will lead to abuse. It is in the nature of man that it should; and we see that great abuses have already sprung from this prolific source.

Let us suppose some active, zealous, busy, bustling man, possessed of qualities eminently advantageous to the public in his way of business, and the same active qualities no less advantageous to his party, when directed to the purposes of electioneering. Now, such a person proposes an alteration on his route. Of course, it will be made to appear a very desirable improvement. He represents to the Department that some change in the time or speed of the mail is wanted by the public. He backs his suggestion by petitions: the case I am supposing is purely an abstract case. The people, not knowing his objects, and easily convinced of the supposed benefits described to them, in glowing colors, sign these petitions with facility. Then, when such a favorite as this, a useful man, too, comes to ask for extras, is it not at once evident with what facility they will be granted? The principle, therefore, is to be condemned which commits to public officers a discretion of this nature. It is a principle adverse to every maxim of good government.

I will not deny that some inconveniences, perhaps many, may be the effect of the removal of this discretion; but, let them be what they may, no one can hesitate to conclude that they are nothing in importance when put in competition with a multitude of abuses; that which is more important is, to strike at the root of many abuses: inconveniences are better than abuses. Perhaps too great a stress is laid upon the inconveniences which the withdrawal of the discretionary power is supposed to be about to create: security and certainty are preferable to perpetual changes and alterations, even although those changes may hold forth the prospect of advantage; and in most of these suggested alterations, the advantage is held out to the promise, but broken in the performance. If it is known that for four years the mail will be carried weekly, tri-weekly, or daily, in a certain and fixed manner; society will adapt itself to the custom, and be satisfied.

Entertaining these views of the question; regarding it altogether as one of a general nature, I shall vote against all extra allowances in any shape. If we cannot cut off the root of abuses at the very root itself, (and the discretionary power of granting extra and unlimited allowances is that root,) yet let it be limited to the narrowest possible circle in which it is to be exercised.

The question on the amendment was then put and lost without a division.

The next amendment of Mr. GRUNDY was to insert, after the 14th section, the following:

"SEC. 15. *And be it further enacted*, That the expenditures for the transportation of the mail, and all other expenses incident thereto, shall not exceed the resources of the General Post Office; and it shall be the duty of the Postmaster General, in the lettings of mail contracts, and in the extension of improvements, so to regulate the same that the provisions of this section shall not be violated."

Mr. GRUNDY said there was a great principle involved in this amendment; a principle which had been long ago admitted and maintained by the Government, that this Department should sustain itself on its own revenue, and not have resort to the public treasury. If the Senate would bear with him a few minutes, he doubted not that he could satisfy it that this was a very proper amendment, and should be adopted. It was intended to put a check on the Postmaster General, in regard to the discretion which was vested in him. Now, he (Mr. G.) was altogether opposed to give that officer an unlimited discretion. If the expenditures of this Department were not restrained, what would happen, or rather what might happen? Why, the Postmaster General could, in four years, break the treasury of the United States. There was, at present, no limitation to his discretion; and he (Mr. G.) proposed now to introduce such limitation into this bill. He was decidedly of opinion that the Department ought not to be allowed to exceed its revenue. Now, the amendment which he had offered would have the effect of preventing it from doing so. If he wished to devise the best scheme possible to waste the public money, he would take this bill without his amendment.

[Some remarks of Mr. EWING are here omitted, which the indisposition of one of the reporters prevented his furnishing.]

Mr. GRUNDY said he had heretofore seen attempts made to make the Post Office Department dependent upon the treasury, by reducing the postage. He repeated that his object in offering the amendment was to compel the Department to rely on its resources. He was averse to leaving so much discretion in the hands of the Postmaster General, as was indicated by some honorable Senators, in regard to the money which should be expended by him in the transportation of the mails. He thought the amount too large to be intrusted to one individual—and mischief might result from it. There was a rule in politics which ought never to be departed from, and that was, never to pay money whilst another expended it. This was different from an appropriation for fortifications, or any other national purpose, for then the work was under the control of Congress, and they knew exactly the amount that was to be paid. But how stood the matter with regard to the Post Office? Why, the Postmaster was rendered omnipotent in regard to his expenditures, whilst Congress was called upon to pay the money for him. He (Mr. G.) knew that the machinery of the Post Office could not work well unless some limitation were fixed. He thought, with the Senator from Ohio, that the income of the Department was

ample enough to pay all its expenditures, and there was no necessity to go beyond it.

Mr. BIBB wished to move an amendment. There seemed to be a prospect of considerable alterations taking place from the new organization of the Post Office Department. From the organization of the Department to this day, it had been an axiom that its revenue should maintain it. Senators might recollect that, in 1829, when he had the honor of being appointed chairman of the Post Office Committee, a great number of petitions were laid before it in relation to new routes, which must have put the Department to an additional expense. He took an account of them, and stated their number to the committee, to whom the question was put—"Shall the income of the Department defray its expenses?" Every member replied in the affirmative, and all concurred that it was unnecessary to examine all the petitions: because, at that time, the annual expenditure exceeded the receipts of the Department. But there was a surplus fund which kept the concern together. At the request of the Government, during the war, the rates of postage were raised, in order to enable it to carry on the war; but on the return of peace they were reduced to their present standard. It having always been an axiom in both Houses of Congress, that the expenses of the Department should not exceed its revenue, he was unwilling that it should be departed from, for he could not consent that money should be taken out of the public treasury for its support. Mr. B. then expressed himself in favor of the amendment, and proposed to amend the same by striking out the word "thereto," and inserting "to the General Post Office Department." The expenses of the Department, he had been credibly informed, amounted to $80,000 a year. Taking into consideration the vast increase of the revenue of the Post Office during the last six years, there would shortly be sufficient funds at its command to give new mail routes and other facilities.

Mr. GRUNDY said that hitherto many of the expenses of the Post Office had been defrayed by the Treasury Department. Now, his proposition was, that no part of them should be paid by the Treasury. He entertained no doubt that in a very short time there would be money in abundance at the disposal of the Post Office Department. He did not feel inclined to vote against the amendment, though he believed it to be unnecessary.

Mr. EWING moved to strike out the word "Department," which was agreed to by Mr. BIBB, and the amendment was concurred in.

Mr. KNIGHT said, I differ, sir, from my associates on the Post Office Committee in regard to this amendment to the amendment proposed by the Senator from Kentucky. It appears to me that, by placing the whole incidental expenses of the Department upon the income of the Department, is more than it can at this time bear. This amendment does more than to embrace the usual incidental expenses of the Department; it includes all the officers and clerks in the General Post Office, probably exceeding the sum of $100,000 per annum. This, under the present situation of the Department, is more than it can perform without a curtailment of the facilities heretofore enjoyed by the public. The amendment of the Senator from Tennessee, which includes all expenses incidental to the transportation of the mail, I am in favor of; but the amendment proposed to the amendment is, I think, going further than the income of the office can meet. I shall vote against the amendment.

Mr. BIBB entertained no doubt that the Department would be able to pay all its expenses, if economy and proper management were used in regard to its affairs. He objected to putting so large an amount of money at the disposal of the Postmaster General, and was of opinion that it should be limited; and then, when that officer found his means running short, he could dismiss his temporary and useless clerks, and thereby curtail the expenses of the Department according to its revenue. If he (Mr. B.) thought that the funds of the Department properly managed were not sufficient to meet its expenditures, he would have advocated the payment of its debts at this time, if it were not for the danger of setting a bad example.

The amendment was agreed to: Ayes 25.

The next amendment, offered by Mr. GRUNDY, was as follows:

"SEC. 16. *And be it further enacted*, That all the debts which may be owing by the Post Office Department on the 31st day of March, 1835, when ascertained and adjusted by the commissioner, under the direction of the Secretary of the Treasury, according to the provisions of this act, shall be paid by the Treasury of the United States, out of any moneys not otherwise appropriated."

Mr. SOUTHARD wished to inquire of the Senator from Tennessee whether the suggestion of obtaining an appropriation for the Post Office Department, had been made by the Executive, or by the Department?

Mr. GRUNDY replied that that amendment, like all the rest, was the work of his honorable friend from Illinois [Mr. ROBINSON] and himself.

Mr. SOUTHARD objected to the amendment, and gave his reasons at some length. Among these, he stated that the committee had already been charged by the Postmaster General with having put forth a false statement relative to the deficiencies of the Department. He desired an application to be made from the proper quarter, in order that the committee might be vindicated. He would not appropriate money for debts contracted until he had an assurance that there was something more like reform in the administration of the Department than the resignation of a clerk.

Mr. GRUNDY observed that all he wanted was to come to a clear understanding. That this Department was in debt was a fact known to all, though gentlemen were of opinion that it was more largely in debt than its financial officer states it to be. There was a considerable sum of money due to banks and contractors, over and above the amount due for the present contracts. Now you, said Mr. G., are about to say that, after the 31st day of March, all the money of that Department shall be put beyond its control; that not one cent beyond that period shall be left in its hands. Now, said Mr. G., what is my object? When you settle up the accounts of this Department, and take away its moneys, I want you to pay its debts, to satisfy its honest creditors, who may otherwise come to loss. After the public has been benefited by their carrying the mails, they ought surely to be paid for the services they have rendered. Mr. G. did not see the necessity of calling on the Postmaster General for a statement of the debts due by his Department. He had had no conversation with him whatever on the subject; the amendment had been submitted by the gentleman from Illinois and himself, under the perfect conviction that some provision of the kind was necessary to prevent inconvenience to the public, and to render the Department as efficient and useful as possible. Now, although he did not admit that the Postmaster General had the right to bind the United States for debts of his contracting, (and so he voted at the last session of Congress,) yet the debts due to honest creditors ought to be paid, if you take away from the Department the power of paying them. He had no doubt that, if this Department was permitted to go on, it would pay all its debts in time, from its own resources; but, if you take away those resources, it is but fair that, out of them, you should satisfy the honest creditor. On this point, there was but one question to be considered. Was it right that the

creditors of the Department, who have faithfully performed their services to the public, should lose what they have expended on the public service? That was the ground taken by the minority, and, in his opinion, the only true ground. If it was right that those creditors should lose, why, then, the amendment should be rejected; but if, on the other hand, they are to be paid, why pass this amendment, or something like it. He saw no danger to be apprehended from the publication of pamphlets, nor was the question of veracity likely to be raised. The Postmaster General would not come here and make application for funds to pay the creditors of his Department. He would pay those creditors himself, if you let his Department go on; but, if you take away from him the power of paying, you ought to provide for them, rather than they should lose what was honestly due to them. He could not see the force of the objection raised by the Senator from New Jersey, that it was improper to make a provision for the debts of the Department in this bill. Where, he would ask, was it so proper to make this provision as in a bill in which you were taking away from the Department the power of paying its debts? Important, or unimportant, as these debts may be, still, if they are due, they ought to be paid They cannot be larger in amount than the minority think they will be. He had made sufficient provision to prevent frauds in the payment of these debts. He had provided that they should be ascertained by the commissioner, under the direction of the Secretary of the Treasury. If gentlemen wished any farther security to prevent frauds, he was perfectly willing and ready to give it. He had no objection to making the amendment, in that particular, as strong as possible. If these debts were not found to be justly due, they would not be paid; and the amendment, in his opinion, provided only for such as every gentleman would admit ought to be paid.

Mr. EWING objected to the amendment, not because he felt an indisposition to pay the debts of the Post Office, but because the provision for paying those debts was not inserted in the proper place, and unaccompanied with the guards necessary to prevent further abuses. This amendment was a provision for paying the debts of this office, which all knew had been contracted in defiance of law, in a bill framed expressly to guard against such abuses of power, and before any member of the Senate could possibly estimate their amount. What, he would ask, was the proper mode of providing for those debts? There ought, certainly, in the first place, to be a report from the officer who contracted the debts, showing their nature and amount; and then it would be time enough to make an appropriation for that express object. He was not prepared to say that all the debts contracted by the Post Office should be paid in any event; nor that any of them should be paid without a report either from the Executive, or the officer who contracted them. Had there ever, he asked, been a provision made by Congress for paying the debts of any other Department of the Government—for the Treasury, War, or Navy Department? No; but this office was in a peculiar situation, not known before in the history of the country, and the only mode of relieving it from the embarrassments into which it had so shamefully involved itself was to pass a special act, after ascertaining, by an official report, the extent of its involvements. That was the correct mode, and the only one he would be willing to sanction. He had another objection to the amendment. The bill provided that, after the 31st of March next, all the moneys of the Post Office should be taken from its control, and that it should not expend more on extra allowances than twice the amount of postage on the route. Now, if this amendment prevailed, it would be passing a contradictory provision.

He was not unwilling, as he said before, to pay the debts of this office. That was not his difficulty; but he was unwilling to pass a provision for paying these debts until he knew what they were. He was not willing to put it in the power of the office to make such changes of accounts as he had seen while engrossed in his investigations on the committee. The chairman of the committee himself was not aware of the enormous changes of accounts that had been made in that office; a single one of which that he had seen amounted to upwards of $60,000. Another thing necessary to be observed was, that a vast amount of drafts had been drawn by this office, payable, some of them to be paid, as late as 1835. On one contractor's account he had seen so many pencil marks as completely to cover the margins of the account, and not to leave room to write one word. These pencil marks stated various drafts to be paid hereafter to the contractor, to a most enormous amount. He was willing, with his friend from New Jersey, to vote for paying all the honest debts of this office; but he was unwilling, as his friend from New Jersey had said, to take a leap in the dark. He must first know what the debts were, and from an official source, before he would vote for paying them.

Mr. PORTER said, this is the first time, Mr. President, since I have had the honor of a seat here, that I have been called on to vote an appropriation for the support of the Post Office Department; and my position is so peculiar in relation to the question which the section under consideration gives rise to, that I hope the Senate will excuse me while I submit some considerations which I trust will not be found impertinent to the matter in hand. I say, sir, it is the first time that I have ever been called on to give my assent to a law extending relief to this branch of the public service, although others, who have taken me and my constituents under their peculiar care, have been pleased to assert the contrary. If, sir, their allegation be true, it is very strange that I not only forget the fact, but I am unable to recall to my memory that any of the considerations which now press on my mind ever occurred to me before; and yet one would think that a similar application to this would, at any other time, have put in movement the same train of ideas. However, it may be possible, sir, that, like the good citizen in Moliere's comedy, who had been talking prose all his life without being aware of the fact, I am in the habit of voting for and against bills appropriating large sums of money, without being at all conscious of the action I am performing. But, be this as it may, most certainly the proposition now submitted to us involves considerations of a very grave kind, which demand our most serious attention.

Sir, it is not, as my honorable friends have said, taking a leap in the dark to vote for this amendment; it is taking a leap in broad light, and into a very wrong place, to give our sanction to it. We are called upon to vote we know not what sum of money, while we are left in total ignorance whether it be justly due by the Department. The honorable Senator from Tennessee says that the words of his amendment, namely, "debts due by the Department," necessarily exclude all engagements which have not been contracted for a legitimate purpose; but, with all due deference to this opinion, I think the language just referred to admits of a much wider construction. The object of the appropriation, I understand, is to put at the disposal of the Postmaster General a sum of money, intended, among other things, to replace that which he has borrowed from certain banks. Now, sir, as he had by law no authority to contract debts in this way, it follows that it will not be their legality which will furnish a test by which you can ascertain the true meaning of these words, "debts due by the Department." As the very provison itself is made

to supply funds for money taken up contrary to law by the Postmaster General, it is almost a necessary inference that other illegalities, not expressly excepted, are equally embraced by the expressions used in the amendment proposed by the honorable Senator; and, without some further restriction, it is clear to me that those who have to liquidate the claim will regard all debts contracted in the name of the Department as debts due by the Department. Sir, I am not prepared to go this length. A just sense of the duty I owe to my constituents forbids me to repose such confidence any where, more especially in a Department of the public service where there has been such gross irregularities, such patent mismanagement. Before I give my vote to untie the strings of the public purse, I wish to know how much is to be taken out of it. I want information for what purposes these debts were contracted, and how the money which was so borrowed has been applied. Sir, if it has been wasted in favoritism, instead of having been appropriated to the wants of the service, I entertain strong doubts whether, under the influence of the most liberal feelings on this natter, we can conscientiously vote money to discharge debts so incurred. That the Department was trusted because the lender supposed the nation was responsible for the loan, weighs not one feather with me. Public credit can only be maintained in health and vigor by restraining all those who have the collection and disbursement of public money within the limits assigned to them. I deem it of great importance to teach capitalists that before they advance money to any officer of the Government, on the faith of the Government, they should be certain he was authorized by law to borrow it. Nothing short of an extreme case should induce us to give our sanction to such a proceeding. If we do in any other, we shall, ere long, be called to pay some heavy debt, where the money lent has been applied to the personal use of the individual borrowing it. When required to decide such a case, we shall be told of the good faith of the creditor; the apparent necessity of some one advancing funds to meet the exigencies of the public service; and the full confidence felt by the lender that the money placed at the disposal of the officer would have been applied to public purposes. If we attempt to resist the demand, the course pursued by us now will be cited as a precedent then; and with what shadow of reason could we distinguish between the case supposed and the one under consideration? It is not denied here that the money borrowed was used to supply necessities arising from the neglect of public duty. If you repay this, how could you make any satisfactory distinction between such a debt and one where the funds actually advanced by the capitalist were squandered? Between wasting the money received from the creditor and that received from the Government? You could make no difference. Rely on it, sir, if you wish to preserve the integrity of the public treasury, the law must contract the debts for which it is to be responsible; not an officer, unauthorized by law. And you cannot too soon proclaim this doctrine by your words, and sanction it by your deeds. There is no Government on earth that would permit such a practice. There is none that would not become bankrupt if it did.

Mr. P. said he had another and equally formidable objection to voting for this amendment. The Senate, it appears, could neither know the amount of the debts due, to whom the money was owing, nor what consideration was received by the public for them. It is without all precedent in the history of our legislation, as it is contrary to every sound principle, to vote away the public treasure, in total ignorance of the facts which could authorize the appropriation. The two divisions of the committee differ, by hundreds of thousands, as to the sum really due. When the gross amount cannot be ascertained, what hope was there that we can act knowingly on the merits of the respective items of which it is made up? None whatever. His honorable friends who composed the majority of the committee, whose enlightened public zeal and untiring industry in the examination of this Department of the Government had earned for themselves claims on the gratitude of their country, which will outlast the parties and passions of this day, but which will not be fully paid until these parties and passions merge in others and are forgotten, tell us that their accountant clerks have been for days occupied in an inquiry into the justice of one of these debts, and yet they cannot reach a satisfactory result. If this be true of one of the class, what is to be expected of the rest?

On contemplating such a state of things, (continued Mr. P.,) it is impossible to repress the sentiment--Why, if fairness be intended, and the transactions which produce these debts are such as will bear exposure in the face of day, such confusion, embarrassment, and long-delayed explanation? But one answer can be given. Either the accounts have been kept with such culpable looseness as that no one can now disentangle them, or there is studied concealment. The Department must take the alternative. I hope the former is the true cause. It does appear extraordinary that the whole number of clerks employed in the General Post Office could not, for months back, nor up to this time, tell the amount of the debts due by it, to whom due, and why contracted. Those which spring from loans made by the banks might, I should suppose, be easily told; those owing to the small contractors, the most meritorious class of the creditors, one would think, ought, with great facility, to be detailed; and even those which spring from less laudable sources, if such there be, might, without any great trouble, be enumerated. Eight hours, instead of eight months, would, any where else, be sufficient to furnish the information required. Yet, with the suspicion which such deplorable irregularity, or something worse, is calculated to inspire, though the facts can be furnished, and are withheld, we are called on, good easy souls as we are, to vote money to an indefinite amount; whether $250,000, or $300,000, or $600,000, it is true, cannot be exactly known. But there can be no mistake. There is a safe limitation. It is only *all* the debts of a Department which has been so wisely, so faithfully, so economically conducted. It is difficult to imagine that such a proposition can be seriously made to the Senate. But this is not all. The amendment of the honorable Senator from Tennessee proposes, not only that we shall pay all debts now due, but all that the Department may owe, up to the 1st of April next: that is, it requires of us to forget the past, and calls on us to repose full faith and credit, for the future, in the fidelity and capacity of those who have already been "weighed in the balance, and found wanting." If we should extend our confidence in this way, what security have we for the correctness and legality of the debts which may be contracted hereafter? Are gentlemen prepared to place the whole treasury of the United States at the discretion of the Postmaster General, with the condemning proof before them of the facility with which he yields himself (no matter how innocently) to the arts and solicitations of the vampyres who surround him? I am surprised the honorable Senator from Tennessee should suffer his zeal to so far outstrip the sound judgment which usually characterizes him, as to submit such a project to the Senate. But I shall not be surprised if, months hence, my voice and vote in opposition to such a wild and heretofore unheard-of measure will be used by the Postmaster General as an excuse for contracting the mail facilities in Louisiana. After

imputing to me resistance to a proposition in all respects similar, which never was submitted to me, it will be, of course, for him to take advantage of my action on it, now that it is so submitted. He is welcome to do so. This time, at least, he shall not have it in his power to complacently relate to the President, who "studiously inclines" to hear him, how the voices of the Senators from Louisiana were not heard when the affairs of the Post Office were under debate, and how they refused to sustain a proposition to advance money to discharge all the debts of the Department. Their voices, I trust, will be ever heard when it is necessary to raise them, not in support, but in opposition to such a measure. They will ever be able, I hope, to detect and expose the danger which lurks in such an insidious proposal, and will always have the ability and the firmness to lay bare the sophistry by which it may be excused or defended.

When a fair and full statement (said Mr. P.) of the debts is laid before us, and we can separate those which are legitimate and constitutional from those which are otherwise, it will be time enough to enter into the considerations which ought to govern a vote on the proposition to pay them. At present, it was sufficient for him to say that he never could consent to pay all the debts due, and all that may become due, without knowing either their amount or their fairness. He had every disposition to free the Department from its embarrassment, provided it could be done without the sacrifice of principles the maintenance of which he regarded of paramount importance to any inconvenience which might result from its insolvency. And, once for all, he desired it to be distinctly understood that he never could consent to purchase mail accommodations for Louisiana at the price of surrendering those principles. He had some reason to fear that it was intended to force the Louisiana delegation on this point. But if it was so intended, he thought the scheme could not succeed. He did not believe his colleagues would yield to any such pressure. He could answer for himself that he would not; and he believed, too, the State would readily forego all mail accommodations proffered to them on conditions which involved an abandonment of the law and the constitution.

The Senate, I am sure, (continued Mr. P.,) will enter readily into the motives which have induced me to seize the first occasion to express my opinions explicitly and clearly on the proposition to lend money to the General Post Office, when they learn the peculiar position I occupy in relation to such a question. On my way to this place last autumn there was handed to me, when I reached the city of New Orleans, a paper containing a letter from the President of the United States to a chairman of a public meeting held in that city, from which I beg leave to read the following extract:

"You will perceive that the Postmaster General cannot be justly blamed for this reduction. His plan of retrenchment would have brought the expenditures of the Department within its revenues, in the course of a short period, without touching the arrangements then existing for the transportation of the mail, if Congress had granted the moderate loan applied for at the last session. The application having been refused by the majority of the Senate, the Department was of course obliged to take the steps which were in its power, from its own resources, to meet the demands against it.

"If, in the discharge of the duty, there has been a necessary reduction in the accommodations to the city of New Orleans, it would seem that no blame therefor can be properly ascribed to him, but to the majority of the Senate, among whom are found the Senators from your State, who withheld the appropriations which would have prevented the reduction.

"I am, very respectfully, your obedient servant,

"ANDREW JACKSON."

Sir, my surprise at reading this denunciation of the President was extreme. I had no recollection of having voted against such a proposition; nay, I could not recall to my memory that any such a proposition had been even submitted to me. Still, as the assertion was made without qualification, I was unwilling to depend entirely on my own memory; and, when challenged on this point by my constituents, I went no further than to say that I could not remember of any such action on the part of the Senators from Louisiana as was asserted in that letter. I was, however, the more induced to place confidence in my memory, because there then fell under my eye, for the first time, a species of manifesto, or declaration of war against the Senate, which was issued by the Postmaster General last summer, shortly after the adjournment of Congress; and in which he pronounced the assertion, that the Department had made an application for the loan of money, to be utterly destitute of truth; and in which he further declared, "that he never had stated that aid from the treasury was necessary to enable him to carry on the operations of the Department." Comparing this statement with the letter of the President, in which he asserted that the majority of the Senate had refused the moderate loan applied for last session, I thought there must be some mistake in the matter. But I promised, so soon as I reached this city, and could have access to the journals of the Senate, that I would make myself fully acquainted with every thing that had transpired last session on this subject:

That promise I kept. Soon after my arrival, I looked into our records. I conversed with those who took part in the proceedings, and I became fully convinced that the President had labored under a complete mistake in this matter. That we had not refused our assent to a loan, because no proposition to make one had been submitted to us. Unwilling, however, to give an explanation on the subject, until assurance was made doubly sure, I called on the honorable chairman of the Committee on the Post Office and Post Roads, in his place in the Senate, to explain the matter, and was answered by him what was true, and what I already knew, that the majority and minority of the committee had expressed in their respective reports their opinions as to the propriety and usefulness of advancing to the Postmaster General funds to meet the demands on his Department, but that no distinct measure growing out of these opinions had ever been submitted to the Senate.

Thus fortified by every evidence which a search after truth could furnish me, I thought (continued Mr. P.) that it was due to myself, to the people of Louisiana, and more especially to the President of the United States, that I should disabuse the public mind of the error into which it must have fallen in consequence of his mistake. That task I fulfilled calmly, concisely, and in no angry spirit. Though the extraordinary and unprecedented case of a President of the United States singling out by name individual members of the national Legislature, and accusing them to their constituents of not voting correctly, was pregnant with matter for observation and severe animadversion, I let it pass. Though sorely tempted, at each step of my progress, to turn aside and notice other things, I refrained from the temptation, and placing my naked defence on the facts as they stood, I there left it. And yet, sir, for the exercise of this legitimate, this natural right, thus temperately used, one which is denied in no civilized country to the veriest wretch, though he were accused of the worst of crimes, how have I been treated? I pray the Senate to mark it, and they cannot fail to see the working out of that accursed system pursued here so studiously, and with such perverse adherence to purpose, which has for its object the breaking down of every thing like

personal independence in the members of either branch of the national Legislature. Yes, sir, for daring to vindicate myself against a charge erroneously presented by the President of the United States to my constituents, I have been ferociously assailed in a certain quarter, which I will not name in my place in the Senate, and which I should not notice, were it not for the pervading belief that it echoes the sentiments and expresses the feelings of the Chief Magistrate of the Union. For the correctness of such a belief, I of course cannot and do not vouch. I should hope the fact is otherwise; in many instances I am sure it is; but the prevalence of the opinion, no matter how incorrectly it has seized on the public mind, requires me not to pass unnoticed every thing which is found in the quarter alluded to. I see, sir, that I am there charged, in coarse language, of having uttered a falsehood on this floor. To such an accusation, sir, come from where it may, from the highest place in this land or from the lowest, I feel conscious and proud that, with all who know me, it is unnecessary I should enter on any defence. Against such an assault I interpose the shield of a character behind which I can stand with perfect safety; while, to all who do not know me, I shall, before I sit down, furnish the most ample evidence how unfounded the accusation is. Falsehood, sir! Errors I no doubt frequently fall into. I am subject to the influence of strong feelings, and I claim no exemption from the infirmities which proceed from the party contests of the day; but I am incapable, here or elsewhere, of stating what is not true. I beg pardon of the Senate, (said Mr. P.) I feel the awkwardness of my position in speaking so much of myself; but, in the present diseased state of the public mind, it cannot well be avoided. Hard, hard, indeed, said he, is the fate of the public men who are now in the councils of the country. If they vote contrary to their opinions, they justly suffer the stings and upbraidings of an offended conscience; if they follow the dictates of their judgment, they are accused to their constituents of a breach of duty; if they defend themselves against the accusation, no matter how mild and temperate their defence may be, they are persecuted and defamed.

The history of the proceedings of this body, last session, in relation to the Post Office Department, will (continued Mr. P.) show, most conclusively, that the President was in error in stating that the reduction of the mail accommodation between New Orleans and Mobile was owing, in any respect, to the conduct of the Senators from Louisiana. They had neither art nor part in producing the state of things which caused it, and they did not refuse relief to the Department. This will be best proved by reference to the journals; and I shall rest what I have to say on this part of the subject on what is found in them.

But, before I refer to the particular action of this body, permit me, sir, to carry the attention of the Senate further back than that period of last session when the condition of this Department of the Government came under its consideration. It is well known that, for several years past, an opinion was pretty generally entertained by those persons in Congress who did not believe in the absolute infallibility of this administration, that gross mismanagement prevailed in the General Post Office. This opinion was extensively shared out of doors. It is unnecessary to state the grounds on which it rested; they were numerous and strong. Any one who will take the trouble to throw his eye back on a debate which sprung up in this body in the year 1831, and run through nearly the whole of the month of February of that year, will understand me. It is deeply to be deplored that the attempts then made to investigate the affairs of this Department were so ingeniously met, and so successfully resisted. How much public inconvenience, since sustained, a rigid scrutiny then would have avoided, and how much public treasure it would have preserved, every one now feels, and I need not portray.

The public, however, notwithstanding all that could be said and written in defence of postmasters and mail contractors, still continued unsatisfied; and rumor, previous to the late memorable session of Congress, became loud and active in regard to the abuses which pervaded the Department. In this state of things, the national Legislature assembled, and the President's message, with the usual accompanying documents, was transmitted to both Houses. Instead of any thing appearing in them to confirm these rumors, we, on the contrary, heard, and the American people were told, that the Department was in a flourishing condition; that it was wisely managed, and in a situation to render any further curtailment in the mail accommodations unnecessary. It appears so extraordinary that such delusive statements could be made at the very time when the Department was dragging its slow length along, and about to stop, that I feel the necessity of sustaining what I have here advanced, by proof; for, without evidence, I could not complain if my assertion met with entire incredulity.

The Postmaster General in his official report, after detailing how much the transportation of the mail had increased since he took charge of the Department, proceeds, like a true tactician, to divert public attention from himself, by bringing the errors of others into view. And he accordingly states: "The method in which the accounts of the expenses of transporting the mail have been always kept in this Department has led to a misapprehension of the means of extending improvements in mail facilities." After stating more particularly in what respect this mode of keeping the accounts was erroneous, and to what mistakes it led, he adds: "This is an imperfection not of recent origin, but one which appears to be coexistent with the Department." He continues: "When the inconvenience was felt, the cause was carefully investigated, and the following result was disclosed. Prompt directions were given for the correction of the error in future."

That result he gives at length in a statement of receipts and expenditures, and then discloses to the public his remedy for the slight evils which existed. That remedy was retrenchment.

"The discovery (says he) of the excess of expenditures beyond its revenues, at once showed the necessity of retrenchment. The only practicable mode of doing this was the withdrawal of some of the improvements which had been made, and on such routes as would be least injurious to the public, and least prejudicial to the revenues of the Department."

He then details the amount of the retrenchments made; and, after a statement showing the number of miles the mail is carried in each State, he concludes with this memorable sentence, which forms a subject of woful contrast with the situation of the General Post Office, after the investigation of the committee had laid its affairs open to public view.

"Thus it will appear that but a part of the improvements will be withheld to enable the Department still to rely exclusively on its own resources, as the annual transportation will still be, after the 1st of January next, 1,902,936 miles more than it was on the 1st of July, 1832."

I had almost forgotten, sir, to state that the Postmaster General was so delighted with his improvements and retrenchments, that he could not, even in his official report, repress the overflowings of his gratitude to those who had enabled him to put in such claims to the confi-

dence and gratitude of his country. He tells us: "In making these retrenchments, many of the principal contractors who were to be affected by them, seeing the necessity which induced the measure, have readily declared their cordial acquiescence in it; and, with a patriotic spirit becoming their character, have shown a determination to sustain the Department, as a paramount object, at any sacrifices which it may require on their part."

How delightful, sir, it is to contemplate this gush of affection and respect from the head of the Department, to these kind, generous, and patriotic mail contractors!!! I do not wish to disturb or weaken its effect. How happy it must have made them. I shall only say that I have not the slightest doubt it was a paramount object with these gentlemen to support, not the Department, but the head of the Department, and that, too, at any sacrifice. But whether the public derived any benefit from that support, or is likely to derive any from it hereafter, I have terrible misgivings. I think the Senate shares them with me. I am pretty sure that the American people will. Passing from that, however, I cannot help remarking that, after what we have learned from our committees for the last nine months, it is quite amusing to hear Mr. Barry talk of his improvements in the manner of keeping the Post Office accounts. But a far different sentiment than mirth is excited at seeing those leeches who, for years, have been gorging themselves on this Department, until, filled and glutted, they are now ready to drop off—to see them selected by a member of the cabinet, in an official report, and praised for their patriotism. Patriotism, forsooth! Yes, the patriotism which exhibits itself in violating contracts, and obtaining extra allowances. Shame, shame on the credulity and want of attention to duty which could make the Postmaster General the victim of such a pernicious delusion, and the means of extending it to others.

Such, sir, was the Postmaster General's report: and the President of the United States, resting, no doubt, with entire confidence on the facts thus furnished to him, in his annual message states "that the Post Office Department, on the strength of its own resources, had continued to facilitate the means of communication between the various portions of the Union with increased activity," and that "the progressive increase in the income from postages has equalled the highest expectation; and it affords demonstrative evidence of the growing importance and general utility of this Department."

Sir, the people, on seeing these glowing statements of the energetic management and entire solvency of the Department, were satisfied; the opposition murmurs became fainter and fainter; and the administration party were thrown into a state of the most ecstatic felicity at this successful exposure and refutation of what they deemed another opposition delusion. But alas, sir, human happiness, like every thing else in this world, has a limited, very limited duration. The truth of this remark our Jackson friends were soon compelled to feel most bitterly. For, close on the heels of the Postmaster General's report and the President's message, came those naughty men, the majority of the Post Office Committee, with my friend from Ohio at their head, who would take nothing on trust, who looked into accounts, and called for vouchers, and turned over books, and brought up witnesses, and examined and cross-examined them, and sifted, and compared, until the truth, though not the whole truth, broke upon the surprised mind of the American people. It was then found, sir, that the Post Office Department could not, on the strength of its own resources, continue to facilitate the means of communication; that it was over head and ears in debt; that it was wretchedly managed; that favoritism governed a great number of its contracts, and pervaded many of its operations; that the mail contractors were not patriotic, but the very reverse; that they were growing rich at the public expense, without adequate service on their part; and, finally, that nothing could exceed the disorder which prevailed in every branch of the service.

Men were astonished that such things could exist in so young a Government, and their astonishment has not ceased, because the only efficient remedy for the disease yet remains to be administered by the President of the United States. I do not blame him for the manner in which he spoke of the Department in his message. It was natural that he should rely on the statement furnished to him. But I do blame him, sir, that now, when almost every one in this wide-spread Republic, save the Postmaster General himself and his particular friends, are convinced of his incompetency, that the President should still continue him in office. A man of talents, and amiable in the relations of private life, he may be, and I believe is; but he is utterly unfit for the station he fills—a station which requires severe attention, unceasing industry, and an aptitude for, and a love of, detail. I respect in the President that warmth of feeling and strength of attachment which makes him cling with such tenacity to his friends. But he should recollect that, however praiseworthy friendship may be in private life, it ceases to be a virtue when the public are compelled to pay for its gratification. There is no one, I will venture to assert, who will rise in his place on this floor, and say that we should now be compelled to advance hundreds of thousands of dollars to this Department had it been well and prudently managed. Now, sir, I think that, whether we are compelled to pay $280,000 or $500,000, as either branch of the committee may conclude, it is paying too much for the gratification of any feeling on the part of the Executive, no matter how pure the source from which that feeling springs.

I beg pardon for this digression, and I hasten to return to the argument. The charge made by the President against the Louisiana Senators, I pray you to recollect, is, that they refused a moderate loan, which was applied for to relieve the Post Office Department from its embarrassment, and, by so doing, contributed to deprive New Orleans of a daily mail. In examining this charge I shall, for the sake of greater perspicuity, divide the time we ran through, from the opening of the session to the close, into three parts. The first, and longest, is that which elapsed from the day Congress met, viz: the first Monday of December, to the 9th day of June, when the Committee on the Post Office and Post Roads reported in the Senate. The second period will embrace the time intervening between the appearance of the report and the 27th of the same month, when it, and the resolutions annexed to it, came under discussion. The three days which remained for legislative business (for we adjourned on the 30th) will form the third epoch. If gentlemen will continue to me their attention, said Mr. P., I pledge myself to show that there is not the slightest ground for the accusation made by the President. In entering on this defence, which I intend to be complete and conclusive, I will take no advantage of the precise terms in which the President has couched the charge, namely, "the refusal of a loan applied for." I will show, not only that the representatives of Louisiana, in this body, never could have refused such a loan, because none such was applied for; but I will go further, and prove beyond all cavil, that there was no period, from the opening of the session until its close, when the Senators from that State could, with any kind of safety or knowledge of the matter, have proposed a loan for the relief of the Department. In other words, that there was not any thing they did, nor

any thing they refrained from doing, which in the slightest degree can render them obnoxious to the reproach which has been cast on them.

I begin with the period which occurred from the opening of Congress until the committee reported, viz: from the first Monday of December until the 9th of June, and I ask for the evidence that, during the whole of this time, there was any proposition from any quarter, in this House, to make advances to the Post Office Department? There was none. No one pretends such a measure was mooted here. We therefore did not, because we could not, vote against it. Are we blameable for not introducing such a measure ourselves? How could we have done so? Were we not informed, sir, by the Postmaster General, at the commencement of the session, "that the Department, without further abridging its facilities, could rely exclusively on its own resources?" Had not the President, in his message, told us "that the Department, on the strength of its own resources, continued to facilitate the means of communication through all parts of the country?" How, sir, could we imagine, much less know, after these strong and confident assertions, that the Department would not be able, on the strength of its own resources, to continue the then existing mail facilities? How could we have anticipated that, within seven months from this flourish of the Postmaster General, one of the principal routes in the Union, viz: that which connects the capital of the Mississippi valley with the Atlantic seaboard, would have been selected for curtailment? It was impossible we could have known it. And if we had known it, we could not have moved efficiently. Every thing connected with the Post Office Department was then in the hands of the standing committee of this body, and Senators know perfectly well that any individual proposition would have been referred to it. So the Senators from Louisiana did not vote, within the period I have alluded to, to withhold a loan from the Post Office; they had not the means of knowing even that such a loan was necessary; and if they had known it, they could not have produced any action by this body until the committee reported. When the committee reported, was their position so improved as to enable them to give relief to the Department by any legislative measure? Not at all, sir. Their hands were as effectually tied then as before. On the 9th of June the report came in, and with it the report of the minority. It is, as is well known to every Senator who hears me, a matter of course, in all cases of this magnitude, to have documents of this kind printed, and in no instance does any legislative action which grows out of them ever take place until they are put in the hands of the members, and an opportunity afforded for their perusal. That course, proper on all occasions, was peculiarly called for, nay, was indispensable, in the instance now under consideration. The report of each branch of the committee was long—in several respects contradictory; and to both were appended numerous documents. The whole, when printed, made 380 or 390 pages of close octavo. Without an attentive perusal of it, no member of this body could know the facts, compare the conflicting evidence, or assign to it its true value where it did not conflict. Nor, without care and attention, could an opinion be formed on the opposing views of the majority and minority of the committee. The report and documents were not returned to the Senate, and called up for action, until the 27th of June, so that up to that time the Senators from Louisiana did not refuse any appropriation to relieve the General Post Office from its embarrassments, nor was it possible for them to acquire a knowledge of facts to propose any legislation, nor would the established usages of the Senate have allowed them to proceed if they had possessed that knowledge.

On the 27th of June, three days before our adjournment, the report, or rather the resolutions annexed to it, came up for discussion. I choose to read these resolutions, in order that it may be seen that not one of them recommended the loan of money. They are as follows:

"1. *Resolved*, That it is proved and admitted that large sums of money have been borrowed at different banks by the Postmaster General, in order to make up the deficiency in the means of carrying on the business of the Post Office Department, without authority given by any law of Congress; and that, as Congress alone possesses the power to borrow money on the credit of the United States, all such contracts for loans by the Postmaster General are illegal and void.

"2. *Resolved*, That several reports of the Postmaster General contain statements which, in subsequent papers, he admits to be erroneous; that others, especially those of the 18th of April, 1832, and the 3d of March, 1834, are inconsistent with each other; and that reliance cannot be placed on the truth and accuracy of the communications made by the Department.

"3. *Resolved*, That it is fully proved that a practice prevails in the Post Office Department of granting contracts on bids which vary from the advertisement, and of changing and altering contracts in material respects after they have been accepted; and that this practice prevents all fair competition among persons wishing to make contracts, is calculated to give undue advantage to favorites, and is in violation of law.

"4. *Resolved*, That it appears that an individual who made a contract for the transporation of the mail was required to give it up, for no other reason than that it might be given to another desirous of having it; and that the act of the Department in requiring such surrender, and in effecting the transfer, was illegal and unjust.

"5. *Resolved*, That it appears that proposals for carrying the mail on the route from Chicago to Green Bay were withheld from advertisement; that the contract therefor was given in another's name, but really to one of the clerks in the Department; that the compensation proposed in the bid was raised without any increase of service; and that the transaction is a direct breach of law.

"6. *Resolved*, That extra allowances have been granted to contractors without any increase of duty or service on their part; and that, in other cases, extra allowances have been made, which are unreasonable, extravagant, and out of all proportion with the increase of service.

"7. *Resolved*, That the Postmaster General has established steamboat lines for the transportation of the mail by private contract, at an enormous expense, and without authority of law.

"8. *Resolved*, That the public credit has been pledged for the benefit of individual contractors; and that contractors have been solicited and induced to aid with their personal credit the business of the Department; and that all such transactions are unjustifiable and improper.

"9. *Resolved*, That it does appear that mail lines have been established to run more frequently than once a day, and at a very heavy expense, when no adequate public object required such provision.

"10. *Resolved*, That pecuniary transactions of a very irregular nature are proved to have taken place between the contractors and some of the chief officers of the Post Office Department.

"11. *Resolved*, That the Post Office Department is now deeply in debt, its affairs in disorder, its accounts and reports irregular and unsatisfactory; that it is justly the subject of public complaint, and demands a radical reform.

"12. *Resolved*, That the incidental expenses and

secret service money of the Department have increased, are increasing, and ought to be diminished.

"13. *Resolved*, That it does appear that an agreement was entered into between two companies of mail contractors, the express object of which was to put down all opposition lines of coaches, and all competition in the transportation of passengers on their respective mail routes. That said agreement was drawn by an officer of the Department, and entered into at his pressing instance, and that it was sanctioned by the Postmaster General; and that such agreement, so sanctioned, is an interference with the honest pursuits of the free citizens of these United States; that it tends to establish an odious and oppressive monopoly, and is an unjust invasion of private rights.

"14. *Resolved*, That it does appear that mail contractors have received large extra allowances, and have, about the time of receiving such allowances, become the proprietors or conductors of newspaper presses of a partisan character. It also appears that a newspaper editor in the State of New Hampshire is a contractor for carrying the mail on numerous routes, 'with newspaper privilege:' and that every such act or artifice, tending to unite the press with the Post Office Department, is a dangerous abuse, and ought to be corrected."

Before the debate on these resolutions had proceeded any length, or, perhaps, before it commenced, (I do not recollect which,) a motion was made by a Senator from New York to lay the whole matter on the table. On this motion the yeas and nays were called, and the Senators from Louisiana voted in the negative. The first of the resolutions being put to the vote, and passing unanimously, the remainder, with the report, (no one dissenting,) were laid on the table.

This is a true narrative of what took place in the Senate, as any one may see who will consult the journal; and I again repeat that there is not the slightest evidence that any proposition was made for a loan to the Post Office Department. In truth, at that late period of the session, it was utterly impossible, on so agitating a subject, for any legislation to be obtained. So perfectly was this conviction impressed on the minds of every one, that, although the minority intimated, as their opinion, the propriety of making a loan to the Department, they did not venture to propose such a measure, nor did they even apply for leave to introduce a bill to that effect. Every Senator felt that it was impossible, just at the close of the session, with so many matters pressing on, and strongly demanding our attention, to give to the reports and evidence, which the different branches of the committee had presented, such an examination as would enable him to vote safely on the question. It was with this feeling, no doubt, that the Senator from New York moved to lay the whole matter on the table—a motion which did not at that moment prevail, but which soon afterwards did; and the effect of which was to postpone all questions in relation to the General Post Office until this session. Does any one believe that this distinguished supporter of the administration would have sought to give such direction to the matter, had he felt it possible to carry out the views of the minority of the committee, composed as it was of his political friends? And if he found it, if the minority of the committee found it, impossible to legislate on the subject at so late a period of the session, with what justice, I say, were the Senators from Louisiana selected and stigmatized for assenting to a course forced on all by imperious necessity? It requires a strong effort to keep down the feelings which such treatment awakens. But my object is my own defence, not recrimination: I therefore forbear, and proceed.

If any thing further be required to show the utter futility of the charge, it will be found in the manner which now, with a much fuller acquaintance of the subject, the proposition of the honorable Senator from Tennessee, to pay all the debts of the Department, is received by that Senator's political friends. Does he imagine he will receive their votes for any such measure? The indications already made, I think, may satisfy him it is impossible; and, if he does not withdraw this proposal, I will venture to say that he will be left in a minority, which will be as easily counted as any that has been seen here for some time. No, sir, before men can vote now, or could have voted then, to place hundreds of thousands of dollars at the disposal of the Postmaster General, they must know the sum which is really wanted; they must be satisfied of the lawfulness of the debts they are called on to discharge; and they must have some guarantee that the people's money will not be squandered on worthless favorites. Of all these things we were ignorant then, and we are ignorant yet. Not, sir, to the Senators from Louisiana, nor to the majority of the Senate, can the blame be imputed, that a loan was not obtained last session of Congress for the relief of the Department, but to the Postmaster General himself. If, at the commencement of the year, instead of flourishing in his report to the President about the capacity of the Department to meet its engagements without further abridging mail facilities; if, instead of lavishing praises on the patriotism of mail contractors, he had come forward with a frank avowal of the real situation of the Department, Congress would have had time to examine the whole matter, and, before the adjournment, to have acted on it. But by disputing every inch of ground; by the embarrassments and delays which the committee met in their investigation, the real situation of things could not be communicated to the Senate in time for any legislation. So, sir, it is seen that, after all, the sin committed by the Senators from Louisiana is, that they did not, within the last three days of the session of Congress, read a book of three hundred and eighty pages; examine attentively the evidence; weigh it and compare it; decide between the conflicting views of the majority and minority of the committee; satisfy themselves of the amount of the debts really due; of their legality, and of the policy of paying them: and that, after having done all this, they should not have introduced a bill into the Senate, and had it passed, contrary to the opinion of that body, unanimously expressed, to postpone the consideration of the subject. If they could have done all this, and did not do it, then they are obnoxious to the censure the President has passed on them. But whether they could, or not, is cheerfully submitted to the good sense of the people of Louisiana.

Sir, when I made a few plain observations some days back on this matter, and concisely gave my reasons for considering the President in error in stating that it was owing to the conduct of the Louisiana Senators, and that of a majority of the Senate, which caused the change in the transportation of the mail between Mobile and New Orleans, I observed that no proposition had been made to the Senate to make an appropriation; and I added that, so far as my opinion could be indicated by my votes, that which I gave to lay the report on the table showed as much an opinion in favor of the loan as against it; qualifying, however, the remark, by saying that so many motives might operate in producing such a vote, that no conclusion could be drawn from it, one way or other. It is this statement which has been stigmatized as a falsehohd, because, previous to my final vote to lay the report on the table, in which vote I concurred with the whole Senate, I had antecedently voted against laying the report on the table. And this accusation is supposed to be proved, by assuming that no member of the Senate votes unless when the question

is taken by yeas and nays; and by the admirable logic, that, because I voted once against a measure, it must be a falsehood to say I ever voted in favor of it.

The history of that matter is fresh in the recollection of every Senator who had then a seat on this floor. It will not soon be effaced from mine. The close of the session was at hand, and an immense mass of unfinished business remained to be acted on. The Senate sat to a late hour each night, and all knew that it required our utmost exertions to pass the bills before us. The report of the Post Office Committee came up late in the day: a general feeling pervaded the Senate that it was impossible any satisfactory conclusion could be reached on the numerous matters it treated of, and that it must be postponed; but, at the same time, the majority felt that they could not, without what they considered a neglect of duty, adjourn before they expressed their opinion on the first resolution, which declared that it was illegal for the Postmaster General to borrow money without the authority of law. And it was determined to press that question, no matter what might be its effect on the other business of the House. In this state of things, the Senator from New York moved to lay the whole matter on the table, and he failed, from the determination taken by the majority, which I have just expressed. It was on the decision of this question (I remember the incident well, for I thought his conduct did him honor) that the Senator from Missouri [Mr. BENTON] rose in his place, and declared that, during the short time the report had been in his hands, (I think he said twenty-four hours,) he had given his utmost attention to make himself master of its contents, but that he had not succeeded; that he saw much in the conduct of the Department which he could neither justify nor excuse--much which he deeply deplored; but that he had not the information which enabled him to vote safely on any of the resolutions reported by the committee, save the first, and on that he was ready to record his opinion, hoping that the remainder would be postponed until the next session of Congress. This wish, falling in with the course already determined on by the majority, was at once acceded to. A unanimous vote was immediately passed, condemning the conduct of the Postmaster General in relation to the loans made by him; and, on motion, the reports, both of the majority and minority, with the resolutions, were laid on the table, *nemine dissentiente*. I speak (said Mr. P.) in presence of those who know what took place, and I appeal to them whether I have not given a faithful statement of what transpired.

I here, said Mr. P., leave this subject; it has been painful to me to enter on it at all. All I wished was to place the facts before the people of Louisiana, and that I have accomplished.

But I should poorly repay the attention with which the Senate have honored me, if I did not, before I sit down, attempt to follow out the facts I have been narrating, to the consequences to which they inevitably lead. The subject, indeed, suggests considerations of the gravest kind to all who desire to secure to the legislative department of our Government that freedom of action which is indispensable to its usefulness, while it furnishes to those who have felt alarm at the late rapid growth of executive power, matter by no means calculated to allay their fears. The only strong barrier against that power is the independence of this body; and the wit of man could not devise any thing better adapted to break it down, than the course which has been pursued this last summer in relation to the Senators from Louisiana.

The Postmaster General, in that statement which he furnished to the President in relation to the memorial of the citizens of New Orleans, gives several extracts from the report of the majority of the Senate's Committee on the Post Office and Post Roads, wherein they censure the mode pursued by him in making contracts for carrying the mail between Mobile and New Orleans, and show there has been a great waste of money by not advertising the contract according to law, and inviting competition. In that report not one word is said in condemnation of the running a daily mail between the two cities. The manner in which it had been effected is alone blamed, and, in my opinion, justly blamed. Choosing, however, to understand it as the expression of an opinion on their part adverse to a mail accommodation to the extent he had carried it, the Postmaster General, in his letter to the President, observes that, "during a debate which ranged through three days, the voices of the Senators from Louisiana were not heard in opposition to the report." And the President, in his letter to the chairman of the meeting, says, "the Postmaster General is not to blame; it is the majority of the Senate, who refused a moderate loan to the Department, who are censurable—in which majority are found your Senators."

If the conduct of the Louisiana Senators is here referred to as a reason for abridging the transportation of the mail to New Orleans, it will be a proper subject of examination hereafter, whether the benefits of this Department of the Government should be made to depend on the votes which Senators may give in the discharge of their duty. It would sound rather odd to say—the representatives of Louisiana voted against the Executive, therefore you shall have no daily mail between New Orleans and Mobile; but the Senators from Georgia voted with the Executive, and therefore there shall be a daily one through that State. Passing this by for the moment, however, I wish to call the attention of the Senate to the allusion made, in these official communications, to the Senators from Louisiana, and I ask, why were they named? Sir, I cheerfully admit that, if a portion of the citizens of this country address the executive branch of the Government for any benefit which the law intrusts to the discretion of the President or the heads of the Departments, it is a sufficient answer for them to give, if the fact be so, that the action of the national Legislature on the particular branch of service has deprived them of the power of acceding to the request. That, sir, would be a constitutional and a becoming answer, to which I should never be found ascribing blame. But must it not strike every one that more is intended than furnishing the reason for non-compliance with the demand, when the votes of the Senators who compose the majority by which that legislative action was produced, are especially set forth, or their conduct at all referred to? It certainly must. For as the effect of a vote by the majority is exactly the same, no matter of whom that majority is composed, there can be no object connected with the mere explanation of the causes which induce a refusal, that calls for a reference to the conduct of individual members of the Legislature. In the matter now under consideration, therefore, if the only thing aimed at had been to inform the citizens of New Orleans that, by reason of the conduct of a majority of the Senate, there could no longer be a daily mail, the fact would have been so stated. But more was meant. It was designed that the Senators from Louisiana should be held forth to its citizens as the cause of a public inconvenience; or, more properly speaking, it was intended to put them on their trial before the people of the State, on an accusation where the Executive of the United States should be the prosecutor on his own bill of indictment.

Is this, said Mr. P., a constitutional course for the President of the United States to pursue? Was it contemplated at the formation of our Government, or has

it ever before been the practice for the Chief Magistrate of the Union to arraign before the people of a State their Senators on a charge of voting incorrectly? This body, sir, as a whole, with its high functions, the long tenure of service of its members, and the lofty endowments which are generally shared by them, is an unequal match for the executive power, when wielded by a man of indomitable will and absolute popularity. If this be true, as we have all felt it is, what chance of escape have one or two members of the body in a contest with the President? None whatever. Hundreds of presses will instantly carry the accusation into every nook and corner of the land, and enforce it by all the means which are employed to produce popular delusion; and millions of tongues will sanction the charge, for no other reason than that the President made it. Why, sir, I have already experienced the truth of this in my own person. For no other reason than having attempted to show, in the mildest possible manner, that the President was in error, I have been assailed and vituperated with as much violence as if I had wantonly attacked him.

I said I should examine the soundness of the proposition which makes the extent of mail accommodations in a State depend on the votes of the Senators of that State. But when I attempt to do so, I find that it eludes my grasp. It is so void of reason, so unconstitutional, that there is nothing on which sound argument can act. There is no man in this Republic who could sustain himself for one hour before the American people in supporting such doctrine.

Sir, I desire not to be misunderstood. I should do injustice to my own feelings and to truth, if I asserted that the President of the United States has any design on the liberties of the country, or that he would violate the constitution intentionally. But he is liable, like all men, to err, and more liable than many others who have weaker understandings, but who also have weaker passions. My duty, however, requires me to speak of the tendency of his acts, be the motives which prompt them what they may. But while I cheerfully yield to him fairness of intention, I cannot extend that confidence to many who surround him—men who are evidently determined to retain power by any means, and who are now laboring, might and main, to secure the succession to one whom they expect to find a fit instrument in their hands. When, therefore, it is asked why, if the votes and conduct of the Senators from a State furnish no reason to extend or abridge mail accommodations, was the action of those from Louisiana referred to by the Postmaster General, the answer is obvious. The attempt to subjugate the minds of the representatives of the people or the States cannot succeed so long as they are sustained by their constituents at home. Hence the necessity of destroying the confidence they enjoy, by representing them as adverse, either from design or ignorance, to the true interests of those they represent; and this mode of assault acts with double force when, through the case selected for animadversion, an indirect appeal is made to the pecuniary interests or selfish passions of mankind. With a sagacity which shows a deep knowledge of the secret movements of the human heart, it was calculated that although the people would repudiate any such doctrine in the abstract, and express a just indignation at it when it was first announced, yet that, by and by, and ere long, prudential motives would gain the ascendency; that men would finally conclude there is no use in debating constitutional questions, or finding fault with persons in high authority, who will only open the sluices of favor to those who do not differ with them. These are the means by which men in all ages have been conquered and governed; and it is in vain to flatter ourselves that human weaknesses do not exist with us, and that they cannot now, as heretofore, be converted into instruments, by which ambition first assaults and finally subdues freedom.

I call on Senators, while yet they may, to resist such dangerous practices. However plausible the pretexts by which attacks of this kind may be excused, or however well they may come in aid of the party politics of the day, believe me, if systematically and successfully acted on, they lay the axe at the root of good government. I feel an interest, said Mr. P., in this matter, far beyond the passions of the present hour; and if it were necessary to appeal to our opponents on the other side of the house upon different grounds than the ennobling ones connected with the glory and permanent interests of the Republic, I would pray them to remember that the present state of things cannot last. Time, with his ceaseless changes, will soon work revolutions in parties and political fortunes, as he does in every thing else; and we who are now at the bottom of the wheel, turn which way it will, (and it is always in motion,) must sooner or later be placed at the top. When that day comes, how will Senators, who then may occupy a reverse position towards us, feel, if, for their votes on this floor, they should be accused from high places to their constituents; and worse, much worse, if they should find those constituents deprived of advantages intended for all, in consequence of their conduct in performing their duties as legislators? How will you feel, sir? (Mr. KING, of Alabama, was in the chair;) for I hope this revolution will come soon enough to find you still here in the career of distinguished utility, if you should be selected as the individual on whom this most unconstitutional operation was to be performed? You will not, I venture to say, bear it patiently; nor ought you. No country can maintain its liberty without perfect independence in the legislative branches of its Government; and that independence cannot exist where the Executive, with its power and its patronage, throws itself between the representative and the represented. Would not men have startled, sir, had it been proposed in the convention which formed the federal constitution to confer a power on the President of the United States to prefer articles of impeachment to the State Legislatures against Senators whom he might think incompetent or unworthy of trust? And yet, sir, such a power would not be, by any means, so formidable as that of a President directly appealing to the people of a State on the conduct of their representatives; not so dangerous to public freedom; not half so injurious to the individual assailed. Why, sir, I should much rather the Chief Magistrate would prefer articles of impeachment against me to the Senate of Louisiana, than publicly denounce me to its citizens for an incorrect discharge of duty here. In the case first supposed, I should have a trial before an impartial tribunal, be the political sentiments of that body what they might, and my defence would be heard by all my judges. In the other, the charge would be preferred to hundreds and to thousands who never would hear the answer to it, and passion and prejudice would do their work, and procure condemnation, because truth and reason could not be opposed to them.

The whole case offers matter for solemn consideration. There is no real freedom where men do not hold all their rights, personal and political, by a higher tenure than the arbitrary will of any man, still less where the enjoyment of the personal right is made to depend on the manner the political is exercised. You may hold up in your hand the written constitution of the country, and proudly exhibit it to the world as a proof of your superiority of knowledge in the theory of Government; but it is all mere mockery and delusion, if its practical operation be to enable any one intrusted with its administration to expand or contract, for political effect, its protection and its benefits. The men of the Revolution,

who, at all hazards, and every sacrifice of life and treasure, established this glorious fabric, thought, or I have read their history to very little purpose, that they were fighting for the reverse of all this. It never entered into their imaginations that the political rights they were to transmit to their posterity were to be exercised under the risk of penalties; that rewards and punishments were to be any more the consequence of voting, than of breathing the free air of heaven. Sir, if, at the moment when the gallant ancestor* of my accomplished friend from South Carolina [Mr. PRESTON] was rallying and leading his hardy backwoodsmen to the third and decisive charge at King's mountain, his good genius had addressed him, and said: "Young man, for what are you combating? You imagine you are destroying arbitrary government. You are doing so, it is true; but flatter not yourself that the glowing visions of freedom which now fill your imagination will be realized. In less than half a century from this day, the result of your labors and your blood will be a state of things where one-half of the community shall be excluded from all participation in the honors and emoluments of Government for opinions' sake; nay, more, where large portions of men, whole States, shall be placed at the discretion of inferior officers, who will have it in their power to withhold from or extend to them one of the most important benefits which men expect to derive from entering into society. The truth of this prediction will be exemplified in the fate of your own descendants. Before three generations pass away, there will be one of them in the councils of his country, who will emulate your virtues, rival your patriotism, and illustrate your race by his eloquence; yet shall that man be deemed as incapable of filling any office of profit or honor under the national Government, as if he were excluded by the constitution: nay, more; the State which sends him into the councils of his country does so at the risk of offending those in power, and suffering from their resentment." Had all this been told to the distinguished individual in question, he would, I doubt not, in the moment of excitement, have disregarded the admonition. His strong patriotism, and the early experience of the Government, might have induced him to disregard it until the close of his life. But had he lived until now, how cruelly would he have seen all these sinister anticipations realized.

Sir, I have done. I have felt perhaps more than I ought on this occasion, but it is not in my nature to contemplate with patience the injustice inflicted, and still inflicting, on the State of Louisiana in this matter; and until it ceases, I shall not fail, on all suitable occasions, to call the attention of the Senate to her wrongs, and express what I think of her wrongdoers.

When Mr. PORTER had concluded,

Mr. GRUNDY rose and moved an adjournment, which prevailed; and

The Senate adjourned.

FRIDAY, FEBRUARY 6.

The honorable JOHN RUGGLES, elected a Senator from the State of Maine, to supply the vacancy occasioned by the resignation of the honorable PELEG SPRAGUE, appeared to-day, and took his seat.

ROADS IN ARKANSAS.

On motion of Mr. PORTER, the Senate took up the bill making appropriations for the completion of certain roads in the Territory of Arkansas; and the bill, having been explained and advocated by Messrs. HENDRICKS and PORTER, and opposed by Mr. HILL, was ordered to be engrossed for a third reading.

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* Colonel Campbell.

POST OFFICE BILL.

The Senate resumed the consideration of the bill to change the organization of the General Post Office.

The question being on the following amendment, moved by Mr. GRUNDY:

"SEC. 16. *And be it further enacted*, That all the debts which may be owing by the Post Office Department on the 31st day of March, 1835, when ascertained and adjusted by the commissioner, under the direction of the Secretary of the Treasury, according to the provisions of this act, shall be paid by the Treasury of the United States, out of any moneys not otherwise appropriated."

Mr. GRUNDY rose in support of the amendment. As this subject would be properly discussed only by those who have carefully examined it, in answer to the remarks of the honorable Senator from Louisiana, [Mr. PORTER,] made yesterday, he wished to say a few words. That honorable Senator supposed, because he was no favorite of the present administration, injustice had been done to his constituents, in regard to the route leading to New Orleans. This route had been particularly pointed out by the report of the majority of the committee last session, and but one feeble voice raised in its favor, and that not from Louisiana. Mr. G. read from the report of the majority several passages going to condemn this route, and this report was a favorite with the majority of the Senate. He was the only one who supported the conduct of the Postmaster General on that occasion. He wished to do justice to that officer; he wished justice to be rendered where it was due. Last year the head of that Department was condemned for extending facilities; now he was censured for withdrawing them. Mr. G. did not think the Department had acted in compliance with either the reports of the majority or of the minority, but to meet the exigencies of the time. The President of the United States had been censured in the course of this debate. He wished to see if the censure was just. [Here Mr. G. read from the report of the Postmaster General made to the President; also, from the report of the majority of the committee, showing the grounds on which the President had founded his opinions.] He thought no injustice had been done to the Senators from Louisiana. If they thought so, let them state to the Senate that they would have voted in favor of the grant. So far from that, he did not believe they would even vote for it now. The Department had been accused of corruptions, said Mr. G. He thought the head of that Department uncorrupt, and incapable of corruption. He feared for him at the commencement of the investigation, not from any suspicions of his integrity, but from perjury and misrepresentation. The order for investigation held out an invitation to all dissatisfied and ill-disposed contractors who had been dismissed or rejected. But, to the honor of his countrymen, he was proud to say, no one had been found to accuse the Postmaster General of corruption. In accusing the Department of corruption, in general terms, the innocent were involved with the guilty. Distinctions should be made—the dishonest should be pointed out; and then, in the language of the Senator from South Carolina, [Mr. PRESTON,] the culprit might be held up to the view. Mr. G. contended that the term corruption was improperly applied, where there was no evidence that the individual accused had been profited. He thought mismanagement was severe enough. If there was corruption, he did not believe it attached to the head of the Department. The Postmaster General did not reverse the political maxim, which considers all innocent until they are found guilty; which, perhaps, he ought to have done, and suspected all persons of having improper and selfish designs on the Department. A thousand influences were brought to bear upon the interest of the contractor, of the innkeeper,

of the stage driver, of the citizen who provided hay and oats, or chickens and butter, for the support of those employed in this business; and, finally, by members of Congress.

The Senator from New Jersey, said Mr. G., had told us the people would not be satisfied with the turning out of a single clerk. That Senator would not be satisfied with the turning out of a single clerk; not with the turning out of the head of that Department; not with the turning out all the clerks in all the Departments; not with the turning out of all the heads of the Departments—no, not even of the President of the United States, for then the Vice President would turn himself in.

Mr. G. contended that, if Congress took away the revenues of the Department, they should also pay all just and honest debts. He was not disposed to trust to some future appropriation. It was better to do a thing while they were about it.

Mr. LEIGH begged leave to say a word or two in reference to what had passed at the last session. He had a very distinct recollection of the impressions made on his mind at the time. He understood the report of the minority, at the last session, precisely in the sense in which the gentleman from Tennessee now explained it. He understood it as recommending to Congress an appropriation of money to pay the debts of the Post Office, and thus, at once, relieve the Department from its embarrassments. His attention had been called to the subject, because it was one with regard to which he confessed he had felt much much concern and some difficulty. He did not acknowledge that money borrowed by the Postmaster General, without the authority of law, constituted a debt due by the United States, or that such a contract, by force of the contract itself, imposed any obligations on the Government. Entertaining this opinion, it was his impression, nevertheless, that, supposing this money had been faithfully applied to the public service by the Postmaster General, it was right, in point of policy, that the Government should provide for the refunding of it; and he had made up his mind, whenever an appropriation bill for that purpose came before the Senate, to vote for paying this money, provided it should appear to have been fairly disbursed, (which he had seen no reason to doubt,) and provided the Department should be previously placed on a secure footing. But, in the course of the debate, some gentleman suggested that the Postmaster General had come to Congress for relief; and he understood the Senator from Tennessee [Mr. GRUNDY] to say expressly that no such appeal had been made, or would be made, by the Postmaster General or any body else. Now, had he correctly understood the gentleman as conveying this meaning? He sat far from the gentleman, and might possibly, from this cause have misunderstood him.

[Mr. GRUNDY replied that he might have made such a suggestion in the latter part of the session; but he had no recollection that any such application had come from the Post Office Department.]

Mr. LEIGH continued. Sir, said Mr. L., the remarks I allude to were made in the debate on the reports of the Post Office Committee. His attention was particularly called to it, because he had wished to know what it was his duty to do in the event of an appropriation bill to pay these debts; and the gentleman's remarks were impressed on his memory by the difference between what he understood to be the recommendation of the minority of the committee in their report, and the declaration of the gentleman from Tennessee. If the money was to be refunded, his impression was that this ought to be done, not by making a loan to the Department, which the Postmaster General might apply as he pleased, but by paying the creditors their money directly from the treasury. But he had also made up his mind not to pay these debts until the Department was completely organized and put on a safe footing; and in this determination his mind was still firmly fixed.

Now, as to this particular provision proposed by the Senator from Tennessee to pay the debts of this Department, after the 31st of March, let a schedule of them be laid before the Senate, and, if it should appear that the money had been applied according to law, he would be willing to vote for an appropriation to pay it. But, he repeated, he would vote this money to the creditors of the Post Office, and not vote for it to be applied as the Postmaster General might think proper; and he should do this without regard to any question concerning the integrity of that officer, but on the principle which should govern every public man, that the means as well as the end ought to be regular and constitutional. He would be unwilling to put it in the power of any officer to misapply this appropriation, made for the benefit of public creditors. Suppose it should turn out that Reeside, or some other contractor, who had received improper advances, should put in a claim for part of this money? Was it to be supposed that he would vote to pay money to one who owed money to the public? Who had received money without consideration, which might be recovered back in an action for moneys had and received; money which any chancellor in the land would order the restitution of. Show us, said Mr. L., the schedule of the debts of this Post Office, and let us pay what is fairly due to the creditors themselves, without permitting the Department to apply it in its own way.

He was not now called upon to express any opinion on the conduct of the Postmaster General, and he had no inclination to volunteer one. He was disposed to judge him with as much impartiality as the gentleman from Tennessee himself—to mix up a full portion of charity in his judgment of every one connected with that Department, who had been the subject of animadversion. He should not enter into any question of that sort; the occasion did not call for it. But, said Mr. L., to whatever cause the evils for the correction of which we are now legislating may be justly imputable—whether to impositions and frauds practised by contractors on the officers of the Department, or to the want of due vigilance on their part, or to the want of diligence or ability in the management of such multifarious and complicated affairs, or to corruption and favoritism—I must declare my opinion that it is not Obadiah that has tied all these knots, and that all the curses of the anathema ought not to be denounced against him alone.

Mr. EWING replied to what had fallen from the chairman of the committee, [Mr. GRUNDY,] denying that the report of the last session condemned the Postmaster General for sending a daily mail to New Orleans. The complaint was that public competition had not been invited to the contracts; and that, although the forty thousand dollars had been paid to the contractor, according to his contract, there had been one hundred and fifty failures in the course of the year. He instanced cases in which large sums had been paid where no service had been rendered. He replied to the remark of the chairman, that he feared perjury would be resorted to for the purpose of criminating the head of the Department. These fears were ill grounded. It was certain that examinations had developed a worse state of things in the Department than had been represented in any oral or written communication. The difficulty the committee had to encounter was in wringing from the many persons dependent on the Department any information against the mass of power which supplied them with bread. He expressed his views on the conduct of Mr. Brown, indicating that the presumption was justifiable that the public had suffered from his misconduct, and that it cast a moral taint upon him.

He then stated the facts concerning the application for relief, in order to show that the committee had not any intention to force any appropriation on the Department. He showed that the committee had authorized no step in reference to any appropriation, further than giving permission to the chairman to obtain from the Department an estimate of its responsibilities. He stated that the principal debts due before January, 1834, were those of small contractors, who had been ruined by the withholding of their small quarterly pittance. These persons did not come here, but merely communicated by letter. They would not be paid by the Department, which would take care, in the first place, of the large contractors who presented themselves at the Department. Another character of debts was accepted drafts of contractors, for services not yet performed, amounting on the 1st of April last to one hundred and sixty thousand dollars. How, then, could provision be made in this bill for the payment of all these debts? He hoped this amendment would be rejected, and he would then introduce an amendment providing for an appropriation, by law, for the legal debts of the Department.

Mr. BUCHANAN said, I do not rise to extend this debate; on the contrary, if it may be permitted of so young a member of the Senate to express such an opinion, I think it has been already too much prolonged. What have we before us? We have a bill reported by the Committee on the Post Office, almost unanimously; a bill, the several provisions of which are indispensable to the proper management of this Department of the Government; a bill correcting the astonishing anomaly which has heretofore existed in it--that the same hands shall pay out the public money which receive it. The only correct check which can be put on that Department, is to make the officers who receive the public money entirely distinct from those who pay it out. Now, he was very anxious for the adoption of this measure. The session is rapidly drawing to a close, and unless we can send this bill, in the course of a short time, to the House of Representatives, there is no chance, no hope, of its adoption at the present session. So far, therefore, as my humble influence will go, I am prepared to take up this bill as a public measure, and discuss it on its principles, without going into a debate as to the abuses which are said to exist in the Post Office. There is no necessity for such a discussion.

The honorable Senator from Connecticut [Mr. SMITH] has introduced a resolution on which, when it shall come up, war may be made on one side, and war may be repelled on the other. This, I humbly apprehend, is not the occasion for a discussion. But, again, I am opposed to entering into a general discussion for another reason. When the reports of the majority and minority of the committee were presented and read here the other day, we presented the appearance of a "Sleepy Hollow;" for, as far as I could judge, no Senator present was paying that attention to them which their merits and importance deserved. I plead guilty myself; I knew that I could not understand them in detail from hearing them read, and I determined to wait until I could see them in print. I feel, therefore, quite unprepared to express an opinion on the subject at this time. So soon as I can get the reports, I will lay aside all other business in order to examine them carefully, and make up an opinion, which I shall express, on the proper occasion, most fearlessly and candidly. Now, there is another reason why we should be in possession of the reports before going into a discussion of the subject. It appears that, as to most of the facts connected with the late investigation, both committees agree, although they have drawn very different inferences from them. Each transaction must then depend upon a careful and minute attention to all the circumstances attending it. It is impossible to make such an examination until we have the reports in print before us. Without, therefore, saying any thing further, I trust that we may go on and pass this bill, debating it, however, so far as regards its own merits, and leave the other subject to another occasion. Before I sit down I would suggest to the gentleman from Ohio [Mr. EWING] the propriety of embracing in this bill those debts due to the small contractors prior to January, 1834, as they are admitted to be due. They have been long owing, and surely he cannot be afraid to trust the commissioner of the Department under this act, and the Secretary of the Treasury, with the settlement of these claims.

Mr. KANE could not be contented to vote for the amendment as it then stood. For instance, he could not consent to pay the amount of debts that might be ascertained after the passage of the law appropriating the money for that purpose; nor to incur the risk of paying money where the consideration had failed; that is, to pay for a transportation of the mail where no transportation had taken place. For these reasons he could not vote for this section. The question, as suggested by the Senator from Ohio, [Mr. EWING,] was: was it correct to leave this subject to the examination of a committee of Congress hereafter? Did not experience show that to expect these debts to be ascertained by a committee of Congress would be hopeless? He believed that the ascertainment of these debts, according to the mode now practised in the Treasury Department, would be much safer; that by that mode they would be much more apt to arrive at justice, both for the United States and for the creditors of the Post Office. He would not detain the Senate with any remarks, but would beg leave to submit a further amendment.

Mr. K. then moved to amend the amendment of Mr. GRUNDY, by inserting words making the provision more guarded against frauds.

Mr. GRUNDY accepted Mr. KANE's proposition as a modification, and it thus became a part of his amendment.

Mr. BIBB rose to offer an amendment; but, before he did so, he wished to make a few remarks. He declared that he would never vote for the payment of a single dollar out of the treasury for the support of the Post Office Department. No, he could not think of setting so bad an example as to pay debts contracted without authority of law, and in defiance of the expressed will of Congress. They ought to be paid out of the funds of the Post Office as fast as they could be paid. There would be much difficulty in ascertaining what was fairly due by the Department, and what was not. Never, perhaps, before, had so much fraud and disgrace attached to any Department under any Government, as did to this Post Office. He must say, and with feelings of great regret, that it had not been conducted as it should have been; not that he entertained the slightest distrust in regard to the honesty and integrity of Mr. Barry. He well knew that gentleman's kindness of heart and honesty of purpose, and was extremely sorry that he should have been so misled and imposed upon by those vile miscreants in whom his confidence had been fatally misplaced, and who had so long preyed upon the funds of the Department over which he presided. He (Mr. B.) trusted that the Post Office funds would be applied to free it from debt, and that the treasury would not be brought in aid of the Department. After explaining the objects which his amendment was intended to effect, Mr. B. offered it.

Mr. SOUTHARD had not much to say in answer to the remarks of the Senator from Kentucky; but he had much to say in reference to the amendment offered by the Senator from Illinois, and accepted as a modification

of the amendment. He did not see how it was possible to provide against the difficulties suggested by that gentleman. He therefore, with due deference to his experience, could not support the amendment. He had stated yesterday, (and the doubts that he then suggested had not yet been removed, after a full and thorough investigation of the subject, not only from documents, but investigations, as a member of the committee,) that he had no objections to paying the debts of this Post Office, after the passing of a bill for reorganizing it, with such restrictions as may not only show our abhorrence of the corruption that we have seen, but show that the Congress of these United States will not look upon such corruption. Again: we are now, said Mr. S., reorganizing this Department, (not organizing,) for the purpose of placing it beyond corruption; and yet we are asked, by the Senator from Tennessee, to put an appropriation in the bill which would destroy this reorganization. Why should it be asked, said Mr. S., in a bill contemplated for the reorganization of a Department of this Government, which all knew needed reorganization, to put in an appropriation to pay that which no man is hardy enough to say is due? The appropriation contemplated by the Senator from Tennessee was entirely out of place in this bill. Did not that gentleman see it? Was it not entirely out of place? Did he not admit that it was unnecessary? because, by our own legislation, after the reorganization of the Department, we can accomplish all the objects contemplated by his amendment.

There was, then, no necessity, nay, he would say no propriety, in making such an appropriation in this bill. In a bill framed to provide for the organization of a Department of the Government, no such appropriation had ever been heard of. Who ever heard of an appropriation, by Congress, to pay the debts of the War, Treasury, or Navy Departments? Such appropriations never had been made, and never would be made, until those Departments came before Congress as destitute as the one which had been the subject of their investigations. He could not vote for this amendment. His desire was to see a permanent reorganization of this Department, and, when this was done, he would cheerfully vote an appropriation to pay all the debts that were honestly due by it. He could not, however, consistently with his duties as a Senator, give his vote to pay debts, the amount of which Congress was wholly unaware of, or sanction an amendment for such purpose, in a bill framed to reorganize a Department, and to provide against such abuses of trust, to say no worse, as had been displayed to the Senate.

But there was another difficulty, and that was suggested by the amendment proposed by the Senator from Kentucky, [Mr. BIBB.] We do not know, said Mr. S., what we are about to appropriate—no man could say it. It might amount to millions upon millions of dollars. He spoke not from information in his own possession; he spoke only from what was known to every Senator, that the accounts of this Post Office were so confused, so vague, so indefinite, that no man could possibly understand what its debts amounted to. But let that pass. His objections to the amendments proposed by the Senators from Kentucky and Illinois [Messrs. KANE and BIBB] were, that they were too indefinite. We are, said Mr. S., if this amendment passes, ordering money to five hundred individuals, to not one single one of whom we can know what is to be paid them. We shall be legislating for a large number of cases, in many of which fraud, corruption, abominable breach of trust, and want of confidence, have been fully displayed to us. He was not willing to legislate by such unwise provision.

Would the Senator from Kentucky say that the provision in this bill, and with his amendment, would be any obstacle to corruption? Would the Senator from Kentucky say it was not opening a door to that vile and disgusting scene of profligacy portrayed in the report? Could the Senator from Kentucky tell us who are the creditors of this Post Office? Could he tell us that those who have fraudulently received hundreds of thousands of dollars might not receive thousands more? He held it impossible for the Senator from Kentucky to discriminate between the honest and dishonest creditors of the Post Office. We are legislating in a way by which we cannot prevent most gross impositions. Can we say, asked Mr. S., that we are not making an appropriation for paying claims founded on the grossest frauds? It was true that he might be willing to pay debts for money borrowed contrary to law, and therefore declared illegal and void; but he must first be satisfied that the debt was due. He had an utter aversion to this sweeping mode of legislation.

There were embarrassments of this Post Office, for which Congress must provide in some way; but there was only one way. Let the Department say to us what these embarrassments are, what they have arisen from, and to what extent, and then we can appropriate money to provide for them. If the head of the Department will persist in saying that it owes no debts; if he will call a committee of the Senate liars, for saying they were in debt, and call for money to pay their debts, he would make him retract before he would vote a dollar. There was no difficulty in making such an estimate: one could be made as easy for the expenses of the Post Office Department as for the expenses of the army or navy. The Postmaster General could make it in forty-eight hours, if he chose. Therefore, let us pass the bill to organize the Department, put it on a safe footing, and then make the appropriation, in conformity with the organization. He would not vote a single dollar until he saw the Department organized. Why give your money to be squandered? Has it not been squandered by thousands and hundreds of thousands of dollars? Suppose we pass the bill with this appropriation, what security have we of the faithful application of the money? What security have we that it will not be squandered in the most shameless manner? The Senator from Tennessee [Mr. GRUNDY] said that he (Mr. S.) was hard to satisfy. Perhaps so; the Senator might know him better than he knew himself. The Senator had said that he was not satisfied at the turning out of a single clerk; he had not heard of the turning out of any clerk; no clerk, in fact, had been turned out. He had heard of the resignation of a clerk in the Post Office, but under circumstances indicating that the Department was sorry to part with him. The Senator had said that he would not be satisfied with the turning out of the Postmaster General: perhaps not; but he would tell the Senator that he would rather the President himself should not be turned out just now. Perhaps the Senator might judge him by a standard most familiar to himself. Perhaps he might be waiting to ascertain what particular individual would be most likely to attain the most distinguished station, before he committed himself to his support. He might be so nicely balanced in his support of two distinguished individuals, as to retain the friendship of both, without committing himself to either. All this might be so, and yet he himself be unconscious of it; for the Senator might know him better than he knew himself. But what had all this to do with a bill for the organization of the Post Office? Was it possible that the Senator could think that a bill for the reorganization of a Department was a proper place for making such an appropriation as he contemplated? When we are about making a bill to get over the difficulties into which this Department has so heedlessly run, that we should place before them the temptation to run into others still greater! He wished

the Senator would answer him explicitly on this point. He had not yet done so, and he would not be satisfied, nor would the Senate be satisfied, until it was done.

He had not gone into the reports of the committee, further than was necessary, in opposing this amendment. He was not sure that these reports were perfectly understood. We were, it was true, as was said by the Senator from Pennsylvania, [Mr. BUCHANAN,] in a sleepy hollow, while the gentleman was one of the sleepers. He hoped, however, that the gentleman would wake up much sooner than old Ryp Van Winkle did.

Mr. WEBSTER said it appeared to him to be a rule of practical wisdom, no where more applicable than in the management of business in a popular body, to act as far as possible for a single object by a single measure; to go directly to that object, and keep as clear as possible from all extraneous matter that might embarrass its progress. And it was for that reason he thought that the Senator from Tennessee [Mr. GRUNDY] would have done well to have made this proposition to amend a distinct one.

One word, in the first place, on the condition of the Post Office, and a word also relative to this part of the proposed remedy. That the Department was in a most deplorable state was admitted on all hands; and Congress was now about to pass a bill in order to effect a reorganization of it, and to introduce substantial alterations both in the form and structure of that Department. Now, he believed that the absolute necessity for the adoption of that course would not be denied by any gentleman. In the next place, the Department was acknowledged to be conducted irregularly, in some degree wastefully, carelessly, without prudence and foresight. That was a proposition which, to a certain extent, no man sitting on the floor of the Senate denied. This state of things, then, presented various subjects, undoubtedly, for legislation; the first of which was the thorough, safe, and useful construction or reorganization of the Department. That, undoubtedly, ought to be the leading object; and he supposed it was treated as such by every gentleman. Then, when they had made provision for that purpose, they could also make one for an appropriation to pay off the debt, if any there was. Now, upon what ground was it that the gentleman from Tennessee, [Mr. GRUNDY,] wishing the success of this measure, as he undoubtedly did—that it should become a law—introduced in the bill matter quite extraneous to its character? As all were agreed upon the necessity of a bill, as there was no great difficulty in agreeing upon one which should effect the contemplated changes and alterations in the Post Office Department, why arrest the progress of this bill with a subject which had better be made a separate and distinct measure?

He (Mr. W.) fully concurred with the honorable Senator from Pennsylvania, [Mr. BUCHANAN,] that this was not the proper occasion to discuss facts; and he did not propose to go into them then, for the reason which had been assigned by the gentleman. The amount of the debts, and the circumstances under which they were contracted, were not very pertinent questions when the Senate was considering the mode of reorganizing the Department. They were distinct questions. The Senate was not to look to the past, because the condition of that past was not before it; it could not look into the origin of a debt, because, according to parliamentary practice, it was a matter to be founded on estimates.

Now, he really thought the honorable gentleman from Tennessee would accomplish his object better by striking out the amendment which he had offered, and moving immediately on the Department for estimates. There was another matter upon which honorable Senators all seemed to agree, and that was, that means should be provided for the payment of those worthy and honest citizens who had claims upon the Department, and which had been so long postponed—he meant the small contractors. Could any thing be easier? An appropriation for that purpose might be made in a separate bill, or in one of the general appropriation bills passing through the Senate. He was sure the Senator from Tennessee was desirous to pass the bill applicable to the reorganization of the Post Office; and therefore he trusted the gentleman would not obstruct its passage, in order that it might be sent to the House of Representatives without delay. Mr. W., in conclusion, repeated his wish that the gentleman from Tennessee would withdraw his amendment, so that the bill might be disencumbered of extraneous matter, and receive the sanction of the Senate.

Mr. GRUNDY thought highly of the bill, and wishing its passage, and relying on the promises of gentlemen on the other side to make the appropriation in another form, withdrew his amendment.

The amendment was accordingly withdrawn.

The next amendment proposed by Mr. GRUNDY was as follows:

"SEC. 17. *And be it further enacted*, That the books of the treasury, so far as relates to the accounts of the General Post Office, shall be kept separate and distinct from all other accounts; and every warrant for the payment of money, for demands against the General Post Office, shall [be signed by the Postmaster General and the commissioner of the General Post Office, and shall] express upon its face that the same was issued on account of the General Post Office."

The words between brackets were moved as an amendment by Mr. EWING, and accepted by Mr. GRUNDY.

The amendment was agreed to as amended.

The Senate then proceeded to the next amendment of Mr. GRUNDY, as follows:

"SEC. 18. *And be it further enacted*, That the commissioner to be appointed under the provisions of this act shall have power to transfer debts due from Postmasters, [who do not make deposites in banks,] by drafts, in favor of contractors, in discharge of debts due to such contractors, for services which may have been rendered prior to the time of drawing such drafts."

The words within brackets were inserted on motion of Mr. KNIGHT, the amendment being accepted by Mr. GRUNDY.

The amendment, as amended, was then agreed to.

The Senate then proceeded to consider the next amendment of Mr. GRUNDY, as follows:

"SEC. 19. *And be it further enacted*, That it shall be the duty of the Postmaster General to make to Congress, within the first ten days of each annual session thereof, the following several reports:

"First. A report of all the contracts made for the transportation of the mail within the preceding year, stating in each case its date and direction; the name of the contractor; the route or routes embraced in the contract, with the length of each; the mode of transportation contracted for, and the price stipulated to be paid by the Department; also, a statement of all such land and water mails as may have been established and ordered by the Department within the year preceding, other than those let by contract at the annual lettings of mail contracts: specifying in each case the route or water course on which the mail is established; the name of the person employed to transport it; the mode of transportation; the amount paid, or to be paid; and the duration of the order.

"Second. A report of all allowances made to contractors, within the year preceding, beyond the sums originally stipulated in their respective contracts, and the reasons for the same; and of all orders made by the

Department, whereby additional expense is to be incurred beyond the original contract price, on any land or water route; specifying in each case the route to which the order relates, the name of the contractor, the original service provided for by the contract, and the original place; the date of the order for additional service, the additional service required, and the additional allowance therefor. Also, a report of all curtailments of expenses effected by the Department within the year preceding, specifying in each case the same particulars as required in cases of additional allowance.

"Third. A report of all the incidental expenses of the Department, for the year ending on the 30th of June preceding, classifying the said expenses according to their several objects; as for paper, printing, mail bags and portmanteaus, mail locks, keys; expenses incident to mail robberies and depredations; and showing the sums paid under each head of expenditure, and the names of the persons to whom paid, except only that the names of persons employed in detecting depredations on the mail, and other confidential agents, are not to be disclosed in said report.

"Fourth. The commissioner appointed by this act shall, on the first day of November, in each year, communicate to the Postmaster General the condition of the finances of the General Post Office for the year ending on the thirtieth of June preceding, showing the whole amount of balances due to the Department at the beginning of the year from postmasters and all others; the whole amount of postages that accrued within the year; the whole amount of the engagements and liabilities of the Department for mail transportation during the year; the amount actually paid during the year for and on account of mail transportation."

The amendment was agreed to.

The Senate then proceeded to the next amendment, as follows:

"SEC. 20. *And be it further enacted*, That it shall be the duty of the Postmaster General to furnish to the deputy postmaster, at the termination of each route, a schedule specifying the times of arrival and departure at his office; a copy of which the deputy postmaster shall cause to be posted up in some conspicuous place in his office; and that the Postmaster General shall, in like manner, furnish a notice of any change or alteration in the arrivals and departures which may be ordered by him."

The amendment was agreed to.

The Senate then proceeded to the next amendment, as follows:

"SEC. 21. *And be it further enacted*, That the postmaster whose office is situated at the termination of a mail route, or at any other place at which the Postmaster General shall have designated the times at which the mails should arrive, in addition to the oaths or affirmations now required by law, shall take the following, before some magistrate:

"'I, A B, do swear, or affirm, as the case may be, that I will truly and faithfully report to the General Post Office all and every failure to deliver the mail at my office at the times prescribed by the Postmaster General;' which oath, or affirmation, shall be subscribed by the postmasters, respectively, who may be in office at the passing of this act, within six months thereafter, and by those hereafter appointed, before they enter upon their respective duties; and each postmaster shall cause a certificate thereof to be filed in the General Post Office; and it shall be the duty of the Postmaster General, annually, to report to Congress each failure to deliver the mail, where the same may be conveyed in steamboats, coaches, or stages; and also state, in said report, the names of the contractors on whose routes the failures, respectively, have occurred; and also what order or proceedings have been taken by him in each case thus reported."

The amendments having been gone through,

Mr. CALHOUN moved to amend the bill, in the first section, by striking out the words providing for a commissioner, with the sum of four thousand dollars per annum salary, and insert the following as a substitute:

"*Be it further enacted*, That the duties now performed by the Fifth Auditor of the Treasury Department, be, and the same are hereby, assigned to the Second Auditor of the Treasury; and that those now assigned to the Second, to the Third Auditor of the Treasury, and that the Fifth Auditor of the Treasury shall hereafter be known as the Commissioner of the General Post Office, and shall perform the duties herein assigned, or which may hereafter be assigned to said commissioner."

The Senate then adjourned.

SATURDAY, FEBRUARY 7.

GENERAL POST OFFICE.

The Senate proceeded to consider the bill to change the organization of the General Post Office.

The question being on the amendment, moved yesterday by Mr. CALHOUN, in lieu of the appointment of a special commissioner.

Mr. CALHOUN withdrew his amendment, stating that he did not desire to embarrass the bill, especially as he had found, on consultation, that his proposition would not further the object he had desired.

Mr. EWING moved to strike out the word "four," before the word "thousand," in the first section, being the compensation to the commissioner.

The motion was agreed to.

Mr. EWING then moved $3,500 as the compensation of the commissioner.

Mr. WRIGHT moved $3,000.

The motion of Mr. W. was agreed to without a division.

Mr. EWING moved to amend the second section of the bill by inserting in the fourth line the words "certified statement of," so that it would read thus:

"SEC. 2. *And be it further enacted*, That there shall be appointed by the President, by and with the advice and consent of the Senate, a Solicitor of the General Post Office, who shall receive from the commissioner certified copies of the accounts," &c.

The amendment was agreed to.

Mr. EWING moved to amend the fourth and fifth sections by striking out in each the words "allowed to," and inserting the words "employed by;" which was agreed to.

Mr. EWING moved to amend the fifth section by striking out the words "sixteen hundred," as the salary of a principal clerk, and inserting "seventeen hundred and fifty."

The amendment was agreed to.

Mr. EWING moved to amend the sixth section by changing the date at which the Postmaster General shall deliver all books of accounts to the commissioner, from the 31st to the 10th of March.

The amendment was agreed to.

Mr. EWING moved to amend the same section by adding at the close the following words:

"And shall, on the same day, deliver to the said solicitor all the books and papers of the General Post Office, or copies and extracts therefrom, relating to suits, and a statement of all matters in suit, and all judgments in favor of the Postmaster General, which are unsatisfied."

The amendment was agreed to.

Mr. EWING moved to amend the eighth section by

striking out the words "of the General Post Office," after the word "solicitor."

The amendment was agreed to.

Some verbal corrections were then made.

Mr. EWING moved to amend the eleventh section in the second line—which reads:

"*And be it further enacted*, That, whenever it becomes necessary to enter into a contract," &c.—

So as to make it read:

"That, whenever it shall become necessary to change any existing contract in any other manner than that designated in the twelfth section of this act, or to enter into a contract," &c.

The amendment was agreed to; as also was a subsequent one, in the same section, to make the language correspond.

Mr. EWING moved to amend the twelfth section—which now reads:

"*And be it further enacted*, That no additional compensation shall be made to any mail contractor for additional services in carrying the mail upon any mail route, so as to increase the compensation to more than double the amount of postages," &c.—

By inserting, after the word "route," the following words:

"Which shall have been established before the existence of his contract, or on any other mail route."

The amendment was agreed to.

Mr. EWING further moved to amend this section after the following words:

"And when any extra service shall be ordered, the amount of the allowance therefor, in dollars and cents, shall be signified in the order for such service, and be forthwith entered upon the books of the General Post Office"—

By adding the following words:

"And no additional compensation shall be paid for any extra service ordered before the issuing of such order, and the making of such entry."

The amendment was agreed to.

Mr. EWING moved to amend the 15th section, by striking out the word "extra," in two lines where it occurred, and inserting the word "additional," and also by inserting after the following words:

"And in all other cases where the moneys of the Department shall have been paid over to any person in consequence of his fraudulent representations, or by the mistake or collusion of any officer or clerk of the Department, it shall be the duty of"—

The words following:

"The commissioner to make report thereof to the solicitor, who shall thereupon cause suit to be brought to recover the same," &c.

The motion was agreed to.

Mr. PORTER moved to amend the bill by introducing an additional section, as follows:

"That it shall be the duty of the Postmaster General to enter into a contract for carrying a daily mail between the cities of New Orleans and Mobile."

Mr. SOUTHARD said he was of opinion that there ought to be a daily mail between Mobile and New Orleans. But the difficulty with him was the selection of a route on which it could be thus transported; and he should be glad to receive an explanation from the Senator from Louisiana of the causes which he supposed to exist, which rendered it necessary to insert in this bill the section which he just offered. Unless the grievance complained of was so great that it could not be overcome, he (Mr. S.) should be compelled to vote against the amendment. He thought, however, that it would be better to let the amendment form a separate bill.

Mr. PORTER admitted there was some incongruity in incorporating a provision like this in a general law, but he hoped the Senate would consent to introducing it when his reasons were heard. If the subject had been left to the Postmaster General, to do as he had done for nine months past, they had nothing else to look for but continued interruption; for, by the bill, no change could be made in any contract upon a route which was of ten years' standing, and therefore this route would be cut off. Incongruities should yield to general utility and public necessity. The mail was now carried only three times a week, and he believed this interruption was done for the purpose of inducing Louisiana to send Senators here who would support the Postmaster General. No other part of the whole country, it appeared, could be selected for making retrenchments upon, but this one. Mr. P. then recurred, at some length, to the President's letter to the people of New Orleans, and the allusions made therein to himself and his colleague.

Mr. LINN rose to give notice that, if this amendment prevailed, he would be compelled to submit another, to extend the privileges of a daily mail from Louisville, Kentucky, to St. Louis, Missouri. He should, he said, be forced with much reluctance to take this step, but his duty to his constituents left him no other alternative.

Mr. WAGGAMAN expressed the hope that the notice of his honorable friend from Missouri would have no effect in influencing the vote of the Senate with regard to the amendment proposed by his colleague. It would seem that the Senator from Missouri had not taken the same views as those taken by his colleague, or he would not have given the notice he had done. It would be recollected that New Orleans was the only important city which had been made the victim of the Post Office; hence the propriety of making it an exception to other parts of the Union in framing the present bill. If gentlemen would refer to the importance of the commercial interests of that city, they would see the necessity of keeping up an uninterrupted mail communication with it. His colleague had stated, the other day, that the exports of New Orleans would be thirty millions of dollars for the present year. With all due deference to the statistical knowledge of his colleague, he would say that he had fallen very far short of the amount. [Here Mr. W. gave a statistical account of the exports of sugar, cotton, tobacco, &c., from the port of New Orleans for the last year.] This, he said, would present at once to the view of every Senator the importance of keeping up a daily uninterrupted intercourse with a city so important to the commercial prosperity of the Union as New Orleans. The reason why his colleague had come forward with his amendment at this time was for the purpose of putting it out of the power of the caprice of the Department to abridge the mail facilities of the commercial emporium of his State; that it might have an opportunity of charging the injury done to the acts of refractory Senators, as had been shown by the report of the Postmaster General, and the letter of the President to the meeting of the citizens of New Orleans, which had been alluded to by his colleague.

He and his colleague, Mr. W. said, did not stand there solely as the representatives of the city of New Orleans; they were the advocates of the whole West, which was equally interested in having a constant and uninterrupted mail intercourse with that city. Abuses might possibly follow from adopting the amendment, as suggested by the Senator from Tennessee. Gentlemen might claim equal privileges for other quarters of the country which did not require them; but he apprehended that this could be no good reason for rejecting the amendment, as the necessity of a daily mail from Mobile to New Or-

leans was sufficiently obvious to every gentleman. He did not object to a daily mail route from Louisville to St. Louis. He should be glad to see St. Louis get that additional mail facility. But whether St. Louis required it or not, was not now the question. All they hoped now was to get what it was admitted on all hands New Orleans so much needed, and he trusted that they would obtain the support of the gentleman from Missouri [Mr. LINN] to the measure.

Why, he would ask, was the daily intercourse between Mobile and New Orleans interrupted? Was it because of the expense, when the postages received at New Orleans amounted to so much greater a sum than the cost of its mail facilities? Why deprive New Orleans of this advantage? Did her mail facilities take away any money from the treasury? No, sir, said Mr. W., they are paid for with our own money; and we want only those advantages we have carved out for ourselves. Who paid this money? The people of the South, of the North, East, or West? No, the good people of the city of New Orleans, out of their own pockets, and they were fairly entitled to claim the benefits of the expenditure. It would be vain and idle in him to attempt to explain the importance of a daily uninterrupted mail intercourse with New Orleans. The vast extent of her exports, and the sources whence she obtained them, were so well understood that he would not dwell on that subject. He had designed, in the course of this debate, to say something in reference to the charges made by a very high authority against his colleague and himself, but he had determined to defer it to another occasion. He certainly should take some fitting occasion to notice them as they deserved, but how or when he would not then declare.

Mr. BIBB said he should vote for the amendment of the Senator from Louisiana, notwithstanding the objections which had been urged against it. The Postmaster General had heretofore been left to the exercise of his own discretion as to the number of times the mail should be carried between Mobile and New Orleans. Now, he (Mr. B.) thought the only question was, whether the circumstances of the case called for a law specifying the number of mails which should be carried between the two places: and he was clearly of opinion they did. Could any man doubt the propriety and necessity of running a daily mail between Mobile and New Orleans? or that it was not as much required as between the city of Washington and New Orleans, or between Philadelphia and New York? Certainly it was. The subject required no argument; indeed, the proposition was a self-evident one. The question then was, had the Postmaster General established a daily mail between Mobile and New Orleans? If he had not, why, it was highly proper it should be done. And if the honorable Senator from Missouri [Mr. LINN] entertained the opinion that there should also be one between Louisville and St. Louis, he should vote for his amendment. He should vote in favor of having a daily instead of a tri-weekly mail between those great commercial cities named in the amendment of the gentleman from Louisiana. In conclusion, he would merely add that he would go for any other proposition of a like character, where the necessity of it was made as apparent as this was.

Mr. GRUNDY observed that, having already given his opinions very much at large on the subject before the Senate, he did not, at present, design to enlarge upon it. If there had been one more constant advocate than another for a daily mail route between Mobile and New Orleans, it certainly had been him. In the report of the minority of the Post Office Committee of the last year, he had strenuously advocated the importance of a daily mail route from the extreme East to the city of New Orleans, and his opinions still remained unchanged. But, said Mr. G., that was not the sole question now to be considered. It never had been said by Congress how, when, or how often, a mail shall be carried from one point to another. That matter had always very properly been left to the discretion of the Department. If this provision (*i. e.* the amendment of Mr. PORTER) was inserted in the bill, it would, in his opinion, be entirely out of place. It was said yesterday, and very properly, that nothing of a special nature should be inserted in a bill framed expressly for the reorganization of one of the departments of the Government; but, if this provision were inserted, it would be introducing a more special legislation than was then objected to. But there was another objection. If you pass this amendment, said Mr. G., and the Senator from Missouri [Mr. LINN] can make out that the city of St. Louis has a good claim to a daily mail from Louisville, how can you refuse him when he makes his application for that privilege? And, indeed, where could this special legislation be stopped, if once commenced? Other Senators might present similar claims, strongly supported, and thus endanger the passage of a bill introduced for very important purposes. He did not say that this would happen, but he was unwilling, by sanctioning the amendment, to establish a precedent which might lead to inconvenience, if not injury. He thought that the object of the gentleman from Louisiana [Mr. PORTER] would, with more propriety, be accomplished by a bill framed specially for that purpose, and to such a bill he would give his most cordial support. The Postmaster General, however, was responsible for the proper transportation of the mails, and he being responsible, the matter ought to be left to his control. But, by passing this amendment, the responsibility would be taken away from him. Mr. G. said he should be glad if a daily route could be established between Mobile and New Orleans, but he had rather see it done in another way. In a bill intended to accomplish an express object, no extraneous matter ought to be introduced.

Mr. SOUTHARD had no objection to the amendment itself, though he could not approve of the place in which it was proposed to insert it. He thought it highly important that there should be a daily mail between Mobile and New Orleans; and, in order to carry that into operation, it was necessary that Congress should desire it to be done. He saw no difficulty in the suggestions of the Senator from Tennessee, that, although Congress did require the expenses of the Post Office Department to be kept within its revenues, yet it was perfectly proper and competent for Congress to exercise their own judgment and discretion on any point in relation to the expenditures of the Department. He would move an amendment, at the proper time, if neither of the honorable Senators from Louisiana did not, similar to this which was now offered; but he thought it had better be inserted in the bill establishing post offices and post routes, which was then in the other House. He could assure the honorable Senators from Louisiana that, in some form or other, they might rely upon his exertions to carry the proposition through.

Mr. EWING observed that he concurred entirely with the gentleman from Louisiana, [Mr. PORTER,] that a daily mail should be established between this and New Orleans; but he also agreed with his friend from New Jersey, [Mr. SOUTHARD,] and the chairman of the committee, [Mr. GRUNDY,] that a provision for that object could not properly be introduced in a bill intended to accomplish an express purpose. But there was another objection to the amendment. This bill had to pass the ordeal of the other House, and it was important that nothing should be imbodied in it that would endanger its passage there. By adopting this amendment, he

feared the bill would be weighed down in the House of Representatives, and that they would be unable to pass it at this session. For these reasons he was constrained to vote against the amendment, though he was entirely favorable to the object of it.

Mr. PORTER said that, in the discharge of his duty to his constituents, he was compelled to press the amendment.

Mr. WAGGAMAN asked the yeas and nays; which were ordered.

Mr. PRESTON said that yesterday an important provision, which was contained in this bill, was stricken out, because it was considered of an extraneous character—having nothing to do with the real and avowed object of the bill, which was to reorganize the Department. For the same reason that he entertained in regard to that proposition, he should now feel himself compelled to vote against this.

After two or three words from Mr. POINDEXTER, who moved to strike out certain words in the amendment, which being accepted by the mover, [Mr. PORTER,] the question was taken on the motion to amend, and decided as follows: Yeas 8, nays 23.

So the amendment was rejected.

Mr. KING, of Georgia, moved to strike out of the tenth section the following words, after the word "sealed:"

"And the Postmaster General shall cause to be endorsed thereon the day on which it is received, and keep it sealed until the biddings are closed. The proposals shall then be opened and registered in the presence of the Postmaster General, or one of the Assistant Postmasters General, and of the Commissioner of the General Post Office"—

And to insert the following words:

"With the number of the route bid for endorsed thereon. And the Postmaster General shall also cause to be endorsed the day on which it is received, and keep it sealed until the biddings are closed. The second day after the biddings are closed, the bids shall be opened by the Postmaster General, or by one of the Assistant Postmasters, in the presence of the bidders or their agents, if they think proper to be present. The bids shall be opened in the numerical order of the routes, beginning No. 1, &c., which bids shall, as called, be registered in a book kept for that purpose, and open for the inspection of bidders. Each route shall be bid for separately; and what are usually called combination bids shall not be received."

Mr. KING then explained the objects of his amendment. It had been principally suggested by the numerous complaints which had been made from time to time by the contractors in relation to the injuries and partialities they had met with at the hands of the Postmaster General in regard to the disposal of contracts. Low bidders, according to the present system, stood no chance of obtaining a contract, unless they were men of large capital. It was right, therefore, that they should be protected from trickery and imposition, otherwise they would be disposed to cast imputation upon the Department. And it was also due to the officers themselves that such guards should be introduced against the practice of imposition. According to the present mode of managing the contracts, favorite contractors obtained secret information relative to the lowest bid, on which they would so act as most effectually to defeat others in their attempt to obtain the contract. A fair competition at present was almost out of the question, such were the combinations and other means resorted to for the purpose of keeping out of the market all those who were unknown to the great body of contractors. In order to alter this state of things, he had been induced to offer the amendment.

Mr. EWING said that the difficulties of which the honorable Senator had spoken were completely guarded against by the provisions of the bill. It was provided that proposals should be sent in sealed, and that they should be opened only in the presence of the Postmaster General and the Commissioner. The one would be a check upon the other. If, however, the Postmaster General should not happen to be present at the time fixed for inspecting them, then one of his assistants should perform that office. Now, this was as safe a guard as would be the actual presence of the bidders themselves. There was a clause in a provision of the bill which provided that the "routes should be bid for separately." If the honorable Senator would permit his amendment to be so modified as to contain this, it would put an end to combination bids.

Mr. KING maintained that the additional guard was necessary, and hoped that the amendment which he had offered would be adopted.

The amendment was negatived: Ayes 18, noes 19.

Mr. EWING then moved an amendment providing that every route should be separately bid for, and a separate contract made.

Mr. WRIGHT asked whether it was not highly probable, if this amendment were adopted, it would not very greatly increase the cost of transportation. He entertained the impression that it would, owing to some information he had obtained from the former Postmaster General. That officer had informed him that a proposition which would compel each route to be bid for separately, would, in his opinion, vastly increase the cost of transportation. Under these circumstances, then, he should feel himself compelled to vote against the amendment.

Mr. EWING said that he could not say that it would not increase the cost of transportation; but it was certain of giving greater fairness to the bids, and of guarding more effectually the rights of individuals, who would then have an opportunity of obtaining a fair and actual competition, which otherwise could not be. He trusted that the amendment would be adopted.

Mr. GRUNDY said it was very certain that a practice prevailed among the large contractors of making combined bids, and that by this means they were very apt to get the contracts for the small routes, and also create some complexity and confusion in the business of the Department. Not that he meant to say that the Postmaster General was to blame in the matter, but such was the nature of the contracts that the evil could not well be avoided. If, for instance, a contract was to be made from here to Richmond, and the large contractors combined and bid for all the small routes, they might get them by underbidding, and then let them out to under contractors. The great difficulty was how to get rid of this evil, and at the same time do justice to the Post Office. Suppose, in a route taken by many small contractors, there should be one bad contractor. His failures would produce great and serious difficulties. His conclusion, however, was, that the evil was a very serious one, and he was willing to make the experiment to get rid of it.

Mr. WEBSTER looked upon this as a most important provision, and one that was most likely to prevent mal-practices, or the exercise of partialities towards contractors. He felt very much indebted to the gentleman from Ohio for bringing it forward. It would appear to every one at once, that there could be no such thing as competition in a combination route, and it was very properly complained of. If he understood the matter correctly, combination routes were not understood as one bid. He supposed it to be the practice of the Department to invite competition for distinct routes. But each contractor, perhaps having a contract

at $5,000, would say to the Postmaster General, "if you will give me $12,000 or $15,000, altogether, I will carry the mail to so and so." The Postmaster General would then accept the bid. And what, he (Mr. W.) would ask, was the competition in that instance? Two contracts going into the hands of the same person; thus putting an end to all competition. He must, of course, be a man of considerable capital--a contractor on a large scale, and having an extensive connexion; and the only person who can make bids advantageously. The small local contractor could stand no chance against him in making bids, and therefore they must inevitably fall into his hands. He (Mr. W.) hoped the amendment would prevail.

Mr. WRIGHT had no doubt, from the apparent feeling of the Senate, but that the amendment would be adopted. He had no particular anxiety on the subject, but he felt it his duty to make one or two remarks before taking the question. There were two interests to be consulted with regard to this amendment. One was the interests of the citizens of the United States in having all the mail facilities extended to them within the means of the Department; and the other interest, and a far inferior one to be consulted, was that of a few individuals who choose to make money by carrying the mails. But as he believed the tendency of the amendment would be to increase the expenses of the Post Office, he must go against it. It was that it would destroy that combination and complexity that gentlemen so much complained of, but the expenses of the Department must necessarily be very much increased by it. A large contractor finds it his interest to get the lateral routes on the main route—he therefore allows for them in all the bids he may make. But there will be (said Mr. W.) no single bids for these lateral routes commensurate with the expense. No one could make such bids—and if these were to be relied on, the Department would be left in the hands of the community, and compelled to pay any price. He believed the amendment would prevail, and he had only explained the reason why he should vote against it.

Mr. KING, of Georgia, merely wished to say that because he intended to vote for this amendment, it was not under the idea that it would increase the expense of the Department. He concurred entirely in the reasons of the gentlemen from Ohio and Massachusetts [Mr. EWING and Mr. WEBSTER.] The argument of the honorable Senator from New York was undoubtedly plausible; but what, he would ask, was the practical operation of the system? Why, that so far from being a fair competition in regard to the letting of contracts, there was little or none at all in effect.

The whole subject was well understood by men of moderate capital. The large contractors knew perfectly well how to get hold of the small contracts; for they acted in such a way as to absorb them with the large contracts: so that, in fact, the small contractors were entirely driven from the field. The consequence, then, must be to increase the expenses of the Department. It was necessary, therefore, to pass a law which should put every competitor for contracts on such a footing that no fraud or chicanery could be practised in the obtaining of contracts.

Mr. PRESTON said the gentleman from Georgia was right. The practical effect of such combinations was proved by the exhibitions on their tables. We cannot (said he) calculate the extent of the evil, but we know the effect has been such that, from the absence of competition, the Department has become insolvent. The mail contractors were a body as distinct as any in the country. Instead of being contractors, they had risen to be Government officers, distributing the favors of the Government from one end of the country to the other. Congregating here at the seat of Government, giving and receiving entertainments, dispensing the favors of the Post Office Department at their own will and pleasure, and exercising an influence over it in a strange and mysterious manner. It had been supposed that large offers have been made for the use of the names of these officers, in whom such confidence was reposed that it was thought contracts could not be obtained without their aid. It was exceedingly desirable that this organized system should be broken down, and that these large contractors from different parts of the Union should no longer be permitted to exist as a political corps. He believed that a strong discretion should be given to the Department for the purpose of selecting good contractors, and extending the proper mail facilities to the citizens of the United States. The contractor in his section of the country was a useful man, and so no doubt were many others. But still the amendment ought to pass, and he felt great obligations to the gentleman from Ohio for having introduced it.

Mr. SHEPLEY said that it was very desirable to remedy the evils of combination bids, if possible. In many parts of the country the carrying of the mail was made subservient to the transportation of passengers. And if a contractor could have the carrying of the mail on a main route on which there was great transportation of passengers, he would be willing, in order to secure that route, also to take another in conjunction with it, at a mere trifle. Now, gentlemen would perceive that there was a saving of expense in this mode of doing business, the advantage of which would be lost by making the bids separate.

Mr. WAGGAMAN asked that the question be taken by yeas and nays; which were ordered.

Mr. BIBB moved to introduce the words "and no consolidated or combination bid shall be received."

Mr. EWING accepted the amendment.

The question was then taken on the amendment, as amended by Mr. EWING, and decided as follows:

YEAS—Messrs. Bell, Benton, Bibb, Black, Brown, Buchanan, Calhoun, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Hill, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Mangum, Moore, Naudain, Poindexter, Prentiss, Preston, Robbins, Robinson, Ruggles, Shepley, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Tyler, Waggaman, Webster, White—41.

NAYS—Messrs. Tallmadge, Wright—2.

Mr. EWING then moved to amend the tenth section, by inserting in the twenty-fourth line a provision that the register of the bids shall be opened for inspection immediately after the letting.

The amendment was agreed to.

Mr. SHEPLEY moved a provision, that any one who failed to obtain the main route, but obtained a subordinate connecting one, might give up the latter, which should be let to the next lowest bidder, or advertised anew.

Mr. BUCHANAN thought that no apprehension need be entertained that the great mail contractors were to be driven from the roads by this amendment. The Department was not to know what were their bids, although they might be exceedingly well known to each other; and they would enter into combinations all over the country for little as well as great routes. And after the lettings had taken place, they would transfer the one to the other, so that the present state of things would continue to be perpetuated. With regard to the Postmaster General, the amendment was of very great importance, inasmuch as it would protect him from the censure of having acted with partiality.

The amendment was then rejected.

Mr. POINDEXTER moved to amend the bill, by adding a new section, as follows:

"SEC. 21. *And be it further enacted*, That if any deputy postmaster shall detain in his office any letter, packet, pamphlet, or newspaper, with intent to prevent the arrival and delivery of the same to the person or persons to whom they are addressed or directed, in the usual course of the transportation of the mails along the route; or if any such deputy postmaster shall, with intent as aforesaid, give a preference to any letter, package, pamphlet, or newspaper, over others which may pass through his office, by forwarding the one and retaining the other, for any purpose whatsoever, any such deputy postmaster so offending shall, on conviction thereof in any court of competent jurisdiction, be fined in a sum not exceeding five hundred dollars, and imprisoned for a term not exceeding six months, and shall moreover be for ever thereafter incapable of holding the office of postmaster in the United States."

Mr. P., in offering the amendment, remarked that he did so with a view of putting a stop to an evil which had been complained of all over the country. The deputy postmasters, for instance, on the eve of an approaching election for President of the United States, would hold back, from political motives, letters, papers, and parcels, so as to effect the great purpose they had in view, whilst the information which those letters and papers might contain would perhaps be rendered useless to the individuals to whom they were sent by the time they came to hand. This was a crime of the highest magnitude, and the guilty (provided the detention arose from political motives) should have meted out to him the severest punishment which the law allowed.

Mr. ROBINSON said he had no great objection to the amendment, though he did not intend to vote for it. There were many mail routes, particularly the one mentioned by the Senator from Mississippi, where it was impossible for the postmaster to send in one mail all the letters and newspapers in his office. If the gentleman from Mississippi [Mr. POINDEXTER] would accept, as a modification of his amendment, the words "whenever it is practicable," he would then vote for it. Another thing: letters ought to have the preference over newspapers; for, in the tri-weekly and weekly mail routes, it was often utterly impossible to send all at once.

Mr. ROBINSON then moved to amend the amendment of Mr. POINDEXTER, by inserting the words "whenever it is practicable."

Mr. WEBSTER understood the proposition as making the act penal only when done with an unlawful intent.

Mr. ROBINSON then withdrew his amendment.

Mr. BIBB said that, though he approved of the provision, he should vote against it, because there was already a provision of a similar character on the statute book.

Mr. POINDEXTER said it was not exactly the same as the one he had now proposed to insert in the bill, for it was to be found in the organic law creating the Department.

The amendment was agreed to.

Mr. KING, of Georgia, moved to introduce an additional section, as follows:

"*And be it further enacted*, That no contractor, or combination of contractors, shall be permitted to run opposition coaches on a route bid for and taken by any other contractors; and any person or persons offending against this section of the act shall forfeit the contract or contracts held by him or them; and the route or routes held by him or them shall be re-let, according to the eleventh section of this act."

Mr. KING, of Georgia, said that he did not agree with the gentleman from Pennsylvania in regard to what he had said as to the large contractors doing away with competition. What now was the practice? Why, when the large contractors had been underbid by the fair contractors, they commenced running opposition coaches till they broke down their adversaries, who were of course compelled to give up their contracts. These large contractors, too, had also refused, when they were engaged in running a rival contractor off the road, to take up a passenger at either end of the line, who did not go through in their competition coaches. The wealthy contractors then imposed what terms they liked upon the Department. He knew an individual who had obtained a contract on the 1st of January last, for $50,000, for which there had previously been given $28,000. Now, the intention of these men was to have the Department completely under their control. On one route a mail contractor was now charging the Department $60 per day for the same service which had been just before rendered for $20 by another person, but who was compelled to give up in consequence of the rival contractor's running opposition coaches. There were numerous instances of this kind. The object of his (Mr. K's) amendment was to prevent contractors from breaking down each other, by prohibiting them from running opposition coaches on other routes. If they should attempt this, the contract should be forfeited to the Government. This system, he thought, would be attended with a beneficial result; for, at present, there were many individuals who would send in their bids, if they dare do so, but were afraid, because they knew it would be impossible for them to contend against the great and wealthy contractors, and they must be ruined. When, however, the field should be left open to fair competition, as it would be if this amendment were passed, those who had not heretofore put in bids would do so.

Mr. WEBSTER was well aware of the evils adverted to by the gentleman from Georgia. He had witnessed a very flagrant case of that nature in the course of his professional duties. He did hope that some remedy would be given by law to prevent these flagrant abuses; but whether Congress had the power or not to pass such a provision as the gentleman proposed, it was certain they had not the power to touch the rights of persons because they were mail contractors. He would suggest to the gentleman, therefore, whether it would not be better for him to modify his amendment. He should be glad if some mode could be devised of arresting the evil which he was convinced existed to an alarming extent. We have already, said he, done much towards remedying these evils, as well as many others, but he would give his hearty concurrence to any measure that would put a thorough and effectual stop to them.

Mr. KING, of Georgia, said this objection had occurred to him; but, by striking out the action for damages, he thought it would be received.

Mr. WRIGHT asked for the yeas and nays; which were ordered.

The question was then taken on the amendment, and decided as follows:

YEAS—Messrs. Bibb, Calhoun, Cuthbert, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Moore, Poindexter—10.

NAYS—Messrs. Bell, Benton, Buchanan, Brown, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Hill, Kent, Knight, McKean, Naudain, Porter, Prentiss, Preston, Robbins, Robinson, Ruggles, Shepley, Silsbee, Smith, Southard, Swift, Tallmadge, Tipton, Tomlinson, Tyler, Waggaman, Webster, White, Wright—33.

The yeas and nays were then ordered on the question of the engrossment of the bill, on motion of Mr. EWING.

The question was then taken on ordering the bill to be engrossed for a third reading, and decided as follows:

YEAS—Messrs. Bell, Benton, Bibb, Brown, Buchanan, Calhoun, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Hill, Kent, King of Ala-

bama, King of Georgia, Knight, Leigh, Linn, McKean, Mangum, Moore, Morris, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Robinson, Ruggles, Shepley, Silsbee, Smith, Southard, Swift, Tallmadge, Tipton, Tomlinson, Tyler, Waggaman, Webster, White, Wright —44.

NAYS—None.

The Senate then adjourned.

MONDAY, FEBRUARY 9.

LIGHTHOUSE AT MOBILE POINT.

Mr. KING, of Alabama, in pursuance of notice given, asked and obtained leave, and introduced a bill making an appropriation for the erection of a lighthouse on Mobile point, and for placing buoys in Mobile bay; which was read twice by unanimous consent; and, after it had been explained by Mr. KING that an appropriation for these objects had passed both Houses of Congress, but had been defeated by the negligence of the enrolling clerk of the House, who left the State of Alabama out of the bill, by which means the appropriation was not sanctioned by the signature of the President, and therefore could not become a law, the bill was ordered to a third reading.

EXECUTIVE PATRONAGE.

Mr. CALHOUN rose and said he was directed by the select committee appointed to inquire into the extent of executive patronage, and the means by which it might be reduced, to report the result of their labors; and he was happy to say that all the propositions before them had met with the unanimous consent of every member of the committee, with the exception of a single one, and on that there was but one dissentient vote.

The report was then read. The reading occupied an hour and a half, and concluded with recommending the adoption of a joint resolution; which was read a first time, and ordered to a second reading.

The joint resolution proposes an amendment to the constitution of the United States, providing for a distribution of the surplus revenues among the several States and Territories until the year 1843.

The committee also reported a bill to regulate the deposites of the public money; which was read a first and second time, and made the special order for Thursday next.

The committee also reported a bill to repeal the first and second sections of an act to limit the term of office of certain officers therein named; which was read a first and second time, and made the special order for Thursday next.

Mr. CALHOUN then, under the instructions of the committee, offered the following resolution; which lies one day for consideration:

Resolved, That the Secretary of the Treasury be directed to report to the Senate, at the commencement of the next session of Congress, what duties under twenty per cent. ad valorem, as provided by the sixth section of the act of the 2d of March, 1833, entitled "An act to modify the act of the 14th of July, 1832, and all other acts imposing duties on imports," can be reduced or repealed consistently with a due regard to the manufacturing interest, and an estimate of the probable amount of the reduction.

Mr. CALHOUN having moved to print a certain number of copies of the report of the committee of which Mr. BENTON was chairman, in 1826, on the dangerous tendency of executive patronage at that day—

Mr. POINDEXTER rose to make an additional motion, with respect to the printing of the report mentioned by the Senator from South Carolina; and also the report of the select committee which had just been read. It was his object, he said, to move for the printing of thirty thousand extra copies of both these reports, for the use of the Senate, and for distribution among the people of the United States. He had been deeply impressed with the importance of the views presented to the Senate and to the country, by the report of the select committee appointed to inquire into the abuses of executive patronage, and the means, if any, by which it could be retrenched. He, for one, begged leave to accord to the committee his hearty thanks for the labor which they had bestowed on the subject referred to them, and for the illustrations which they had given to the various topics touched in the report made by them this morning to the Senate. It cannot be disguised, said Mr. P., that the question is now distinctly presented to the American people, of the importance of which they seem to be but little aware, whether power is to be perpetuated in the hands of a dominant party by the influence of patronage and the public money; and whether, by the use of these means, the incumbent of the executive chair shall be enabled to transfer the power which he now wields to some favorite successor; or whether that high office is, as heretofore, under the practical operation of our system, to be freely conferred by the unbought suffrages of the people. It is a question of grave import, in which the office-holders and their dependants are ranged on the one side, and the friends of popular rights and free suffrage on the other. He deprecated the consequences that might result from the apparent apathy which seemed to prevail among the great body of the people, while gradual but fatal encroachments were made, by those who wield the destinies of the country, on the foundations of public liberty and the principles of our free constitution. All republics have fallen under the deleterious influence of an unlimited and misplaced confidence of the people in the purity and stability of human virtue, which never fails to end in cruel disappointment.

The American people, he feared, had been led of late into this great error, from which it may be found difficult to redeem them. They have been slow to believe that an individual, on whose virtue and patriotism they have heretofore placed the most implicit reliance, could be capable of attempting to carry out measures, the inevitable tendency and effects of which must, in the end, if not rebuked, produce the overthrow of their liberties. The only mode by which the people could be roused from this state of apathy was by the free circulation and diffusion of information, coming from authentic sources, combined with such sound reasoning and conclusions as are to be found in this report and other papers, similar in their character, emanating from committees of the two Houses of Congress. Thus, by the dissemination of fact and argument, the eyes of the people may be opened to the dangers by which they are surrounded, and the alarming powers which, unhappily for the country, are claimed and exercised by the present Chief Magistrate. Of all the assumptions of power, of which there had been such an abundant supply for the last two years, there was not one so dangerous in its character as the construction put by the President on the power of appointment and removal from office. Under this construction the Executive might, at pleasure, prostrate and override every other department of the Government, not even excepting the Judiciary. This is effected by converting that power, which was given for wise and useful purposes, into an engine which may be so managed as to accomplish objects in direct violation of the constitution, and thereby concentrate all the powers of the Government in one of its departments, which all history proves is that department most dangerous to the liberties of the people. He would, therefore, limit and restrain this power, by legislation, as far as

possible, without a violation of the express provisions of the constitution. Connected with this subject, he said, he would recall the recollection of the Senate to the principles advanced in a paper sent to the Senate by the President, at its last session, called a protest against certain resolutions which had been adopted by this body. In that paper, it will be remembered, the President claimed, by virtue of powers inherent in the Executive, and which pre-existed the constitution, without deigning to notice the limitations specified in that instrument, and of which he declared he could not be deprived without an amendment of the constitution, the entire control over the public property of every description, whether it be lands, ships of war, military stores, bank notes, or gold and silver in the treasury. He did not pretend to set up this claim under the constitution and laws, but asserted the power, as appertaining to the Executive, in defiance of either. This extraordinary pretension is based on the words in the constitution, "that the executive power shall be vested in a President of the United States of America;" the mere designation of the department which shall exercise this branch of power, in the distribution of powers made in the constitution between the several departments therein created and established. He arrives at this strange conclusion by the most novel process of reasoning, as applicable to a Government of limited and defined powers.

He says, "all executive power is vested in the President," and then, turning to the pages of Vattel, Grotius, Puffendorf, or Blackstone, and informing himself of the nature and extent of the powers defined to be executive, he unhesitatingly appropriates the whole of them to himself. He disdains to trouble himself with the restraints and limitations put on his department by the framers of the constitution, but resorts to the elementary writers, to see their definition of executive power, and vauntingly exclaims, "these are my powers!" because all executive power is vested in the President, including as well such as are granted, as the entire range of those which are known to be of an executive character in other Governments, anterior to the adoption of the federal constitution. But this sweeping claim to the custody and control of the public property and the public purse alarmed the fears of his more prudent friends, who believed that this was too broad an assumption of power to be sanctioned by the people; and they forthwith prepared a supplemental message, or paper, which was sent in the next day, explaining or mystifying the words of the original protest. In this paper he told the Senate that he did not deny to them the right to legislate in regard to the custody and security of the public property, and the money in the treasury of the United States; that Congress, indeed, possessed this right, and that he accorded it to them, always reserving to himself the veto, which he might at all times use, when they legislated on this subject in opposition to his will. The purport of his language amounted to this: "You may legislate on this subject; you may designate the officer who shall take charge of the public treasure, and appoint the place where it shall be kept; but whenever this officer shall be appointed, he must act under my commission, and be subject to my orders. I shall hold the control over him, and if he refuses to execute the powers vested in him by law, according to my will, he is responsible to me, and I am solely responsible to the nation for his acts; and, as a matter of course, if he disobeys my commands, his commission will be vacated, and a successor appointed, who will adapt his conduct to my discretion, without regard to his legal obligations."

Thus, while pretending to yield the enormous powers which he boldly claimed as appertaining directly to his official station, he in effect retains them incidently by the universal control which he exercises over the official acts of every officer of the Government. Of what avail, then, will it be to pass the bill reported by the honorable Senator from South Carolina, to regulate the deposites of the public money in the State banks?

It is manifest that whoever is charged with the execution of this law must, under the new theory of executive power, be subject to the will of the President, and the public money will, under any arrangement which can be made, remain, as it now is, at the entire disposal of the President, without regard to any restraints which it may be attempted to impose on him by law. We are plainly told that it is made the constitutional duty of the President "to see that the laws are faithfully executed;" and that, under this power, he might, in person, perform all the duties himself, if he had the physical ability. He might be the marshal, and, with his own hand, execute the process of the courts; he might himself be the collector of the revenue; he might, in short, execute all the laws in his own proper person, if it were not physically impracticable that he should do so. Congress, therefore, have furnished him, by various laws, with forty thousand aids, for all of whom he holds himself responsible to the nation in the performance of their respective duties. This (said Mr. P.) I understand to be the broad construction which the President had put upon his powers. Well, he tells us that if any one of these officers shall fail to perform his duties in the manner he may order them to be performed, if he shall fail or refuse to act in conformity to his directions or dictation, he would consider it to be his duty, for such default, to remove the officer, because he could no longer hold himself responsible for the performance of his duties. This was plain language, and could not be misunderstood. The President had carried it out to its full extent in the process by which he effected the removal of the public money deposited by law in the Bank of the United States. What right had the President to put his hand in the public chest? The constitution gave him no more power over the treasury than had been given to any other officer of the Government—to draw his quarter's salary, and to spend it in such manner as as he might think fit. The law gave him no such power. A broad line had been drawn by the patriots who formed the constitution, between the Executive and the public treasury. To Congress is given the control of that important branch of the national interests, thereby separating it from the Executive, who is placed at the head of the physical forces of the country.

It must be evident to every reflecting mind, that the concentration of these two powers in the same hands is of the very essence of despotism. How had the President got possession of the public treasury? Not by virtue of any power vested in him by the constitution and the laws, for in these none such is to be found; but he had effected this object by appropriating the power of removal from office to its accomplishment. The President told the Secretary of the Treasury to remove the deposites from the bank, where the law had placed them for safe keeping and distribution. The Secretary replied that he believed the public interests would not be consulted by such a measure; but that it would be, in his opinion, highly injurious to the country at large, and therefore he could not conscientiously comply with the wishes of the President in this respect, in the exercise of a discretion vested exclusively in him by law. Whereupon the President, with seeming courtesy, informs the Secretary: "Sir, I wish it to be distinctly understood that I do not desire to interfere with your duties; you are at liberty to execute them according to your construction of the law; but if you cannot conscientiously conform to my will, I annul your commission, and shall appoint an officer in your place, more pliant, who will obey my

orders on my responsibility, without interposing his own opinion, either in reference to the powers vested in him by law, or the good of the country." It is undeniable that, according to this rule, which seems now to be the settled doctrine of this administration, no power can be vested in a subordinate officer of the Government by law, which is not liable to be controlled in its execution, at the discretion of the Chief Magistrate. Will any one pretend that this Government, thus administered, is one of checks and balances, which limits each department within its own orbit, and confines each to the exercise of its delegated powers and duties? Sir, it is no such thing. The monarch of England, with all his regal sway and pomp, would not dare to lay hold of the public treasury of the kingdom, and loan it out at his pleasure to the corporations of Liverpool or London, or distribute it among local banks, as his own whim or caprice, or his political ambition, might dictate. Such an outrage would arouse the spirit of English liberty, and the throne itself would tremble under the crowned head who had dared to commit it. But, strange as it may seem, all this has been done in this free country, under the name of democracy! The people have not yet had this question fairly before them for their decision.

We have, indeed, attempted to bring the high prerogative doctrines of the present day, in their naked deformity, to the view of the unsuspecting, honest, citizens of the Republic. But the issue has been evaded, and the people every where have been unblushingly told that it was a mere question of "bank or no bank." Thus, the unpopularity of all banks, and the reckless denunciations which have been put forth in the public press against the Bank of the United States, have been brought in aid of the dominant party; the minds of the people have been lured and diverted from the real question which they had to decide, and, under this delusion, popular elections have turned in favor of those who have inflicted the most fatal wounds on the vital principles of our free constitution. But, said Mr. P., I will not permit myself to doubt that, whenever the freemen of this country shall be fully informed of the abuses which have been practised under this administration, of the prostitution of the press, and the corrupt purposes to which the patronage of the Government has been applied, and of the unmeasured strides of power, which defies the restraints of law, they will come to the rescue, in the majesty of their strength, and restore the constitution to its primitive purity and simplicity. Against the formidable array of executive power, now claimed and exercised, neither the constitution nor the law affords an adequate safeguard. This tremendous power of appointment to and removal from office, applied as it now is, enables the President to substitute his will, and render it paramount to the enactments of law, or the express provisions of the constitution. A single example will demonstrate this to the satisfaction of every unprejudiced mind. The power is vested in Congress to authorize the appointment of inferior officers by the courts of law or the heads of Departments. Could such a law be executed against the will of the President? It is manifest that it could not. For, if the head of any Department should refuse to appoint such inferior officers as the President might designate, notwithstanding the law, made in pursuance of the constitution, vested the power exclusively in the Department, the means of enforcing the will of the President, in this respect, is rendered plain and simple, by his former practice in like cases. He might, it is true, disclaim all intention of interfering with a head of a Department in the execution of a law, but that disclaimer would be followed up by the immediate removal of that officer, if he did not make such appointments as the President might dictate.

Thus the President may, with impunity, according to the construction which he puts upon his own powers, trample under foot the laws made in pursuance of the constitution, and make his mandate superior to both. These are the monstrous doctrines avowed and carried into practical operation by the self-styled democracy of the present day. In this manner he might even go further, and effectually control the execution of the judgments and decrees of the courts of the United States. Of what avail is a decree or judgment of the Supreme Court, if it could not be carried into execution? None at all. It would amount to a mere *brutum fulmen*, of no force or effect whatever. Could not the power of removal be applied to a marshal in any district of the United States, if he persisted in executing a judgment of the court, in opposition to an order from the President prohibiting him from levying on the property of the defendant, in the same manner that it has been applied to a Secretary of the Treasury for denying his agency in the transfer of the public treasure from its legal place of deposite? There is nothing in the nature of the service to be performed which would make it an exception to the general rule which is applicable to all officers holding commissions at the pleasure of the President. Thus he would become the ultimate arbiter of the most solemn decisions of the courts; he might examine the record, and pronounce an opinion that the judgment or decree of the court is unconstitutional, as he understands it, (and he executes the constitution as he understands it,) and on this ground alone, according to his good will and pleasure, order the marshal to disregard the process of execution, who would be bound to obey this imperial mandate or surrender his office to another.

Is it not then evident to the common sense of every man who hears me, that, according to the construction which the President puts on the power of appointment and removal from office, he can as effectually control the judgments and decrees of the Supreme Court as if he were to put on the judicial robes and take his seat among the judges? When, sir, said Mr. P., I find the patronage of the Government, and the enormous powers claimed as incident to it, thus perverted and prostituted to subserve the purposes of political ambition, I will raise my voice to check and restrain it, without regard to the consequences which may result to myself personally from the independent discharge of my public duties. He would not, he said, speak at this time of proscription for opinion's sake, which has been carried to the greatest excess under the present administration. He would, indeed, forbear to enlarge on most of the matters which had been brought, in a condensed from, to the notice of the Senate by the report of the select committee. He might, perhaps, seize another opportunity to enter more at large into the consideration of these subjects. For the present he would content himself with the motion, which he indicated when he rose to address the Senate, that thirty thousand extra copies of the report be printed, that it might be distributed throughout the country, for the information of the people.

Mr. KING, of Georgia, said that if he declined following the Senator from Mississippi through the range he had taken on the wrongful exercise of executive power, he hoped he would find a sufficient apology in the fact, that in no part of the report was the President's construction of the constitution doubted. He hoped, also, he might be pardoned for the suggestion, that the committee did not expect a discussion of such a character on the presentation of the report. Not knowing, or rather having forgotten, that the report would probably be presented this morning, he had neglected to furnish himself with some information which would be necessary to sustain him in a few comments which he intended to make upon some branches of the report, and which he should make on a future occasion. But the motion which had been made

seemed to call attention now to one feature of the report. Sir, said Mr. K., I wish it expressly understood that I am in favor of a reduction of the expenses of this Government. And whenever a reasonable proposition was made, from the North or South, from any part or any party, the object of which was to effect this desirable end, he was prepared to concur in it; and that, said Mr. K., is the very reason I am opposed to this motion, which was to print 20,000—(some one near mentioned 30,000) —30,000, declared Mr. K., was more than he had understood it. He had the same objection to 30,000 that he had to the printing of 30,000,000. That objection was, that it was an abominable waste of the public treasure. What was the subject of our deliberation? It was the wasteful expenditure of the public money, as well as executive patronage, which in fact only grew out of it.

If, then, said Mr. K., the expenses of the Government have lately increased to an enormous extent; if they have greatly increased between 1825 and 1833, as stated in the report, which he believed to be true; his intention was, when the report came up again, to show where the increase originated, and was determined that the responsibility should rest where it ought to rest, and was not to be attributed to the Executive. What a spectacle did this body exhibit from day to day? The Senate had been a week making war on the *extras* of the Post Office Department. They were now warring against the extravagance of the Executive; and whilst brandishing the sword in one hand in defence of the public treasure against the ravages of the Executive, we were with the other slipping it into our own pockets, or scattering it in profuse and wasteful extravagance. Mr. K., after enumerating a few features in the report which he intended hereafter briefly to comment upon, principally in the language and reasoning, said it was not his purpose further to trouble the Senate at that time upon the merits of the report, in the conclusions of which he mainly agreed. He concluded by a hope that the extraordinary number of extra copies proposed by the Senator from Mississippi would not be agreed to, as every copy over 5,000, for distribution, would be useless waste, as the report was short, and before even 5,000 extras could be printed, it would be in all respectable journals in the United States. He said he had another objection to the printing of so large a number. It would counteract a principal object of the committee, who wished to avoid giving a party character to the report. These orders for printing so large a number of extras, he said, were looked upon generally as efforts to give a party importance to the document; and, nine times out of ten, it was the object of such orders. He hoped the Senator himself, on reflection, would consent to 5,000 extras, which he thought as many as would answer any useful purpose.

Mr. BENTON rose to speak to some parts of the report; to express his concurrence in some parts, his dissent to others.

He concurred in the general purport, and in the general object of the report, in showing the great increase which had taken place, in a short time, in the expenditures of the Government, and in the number of persons employed or supported by it. The increase was great, but not so great as had been depicted; and out of proportion to the increase of population and wealth of the country for the same period, but not so inordinately as the report affirmed. It was the object of the report to reduce this too great expenditure, and to diminish the number of that vast multitude of persons now paid or supported out of the federal treasury. In all this he concurred with the report; but he regretted, deeply and sincerely regretted, that it had not fallen within the scope of the chairman's view of his subject, to show the source and origin of these great increases; that the blame, if any, should fall upon the true authors, and the genius of reform should know where to apply her correcting hand. The omission of the chairman to show this, had laid him (Mr. B.) under the necessity of endeavoring to supply the defect; and he should do so under all the disadvantages of an immediate reply to a well-prepared report, which he had heard read once in committee before it was now read in this chamber. The report, said Mr. B., assumes, for the periods of comparison, the year 1825, which was the first of Mr. Adams's administration, and the year 1833, which was the commencement of the second term of President Jackson's administration. It was in reality a comparison between the two last administrations and that of President Monroe, which terminated in the year which is taken for the starting point of the comparison. Confining himself to these points of time, Mr. B. would look into the origin of the principal causes of the great increases of money expended, and men employed or fed by the federal Government within this period, and would show that the implications of the report—for direct assertion was not made—but the implications of the report, which would seem to cast censure on the present administration for these large augmentations, could have no foundation in fact, and must find their application elsewhere.

The business of internal improvement was the first head of increase which Mr. B. would mention; and that business commenced, or rather assumed its expanded and invigorated form, in the year 1824, the last year of Mr. Monroe's administration, and under whose auspices and recommendations no person could better tell than the distinguished author of the present report. Internal improvements was then, and at that early time, the inviting ocean upon which many candidates for popular favor were seen to spread the entire surface of their distended canvass. Commenced upon national principles, and with the design of being confined to national objects, the whole system rapidly degenerated into local or neighborhood contrivances for the expenditure of money, and the acquisition of popularity. Before the end of Mr. Adams's four years, the downward course of the system had established the truth of the double prediction which Mr. Jefferson had made shortly before his death; it had opened a gulf which the treasures of Peru and Mexico could not fill! It had produced a scramble for money, in which the meanest got most! President Jackson found this system at that pass, with the immense augmentation of money expended, and men employed, which it necessarily involved; and the consequent increase of executive patronage which these augmentations implied. Far from enhancing, or even retaining, this branch of patronage, he voluntarily stripped himself of it. At the risk of some danger to his temporary popularity, he stood forth to oppose the barrier of the executive veto to the fatal current of local and neighborhood internal improvement. He endeavored to turn back the system, and to confine it to its original design, that of great national objects. So far, then, as this head of increased expenditure, and increased numbers employed by the federal Government, has been a source of augmented patronage to the executive Government, President Jackson is free from blame; so far as diminution of patronage has resulted from the arrestation of the fatal and ruinous part of this system, he alone is entitled to the exclusive honor.

Revolutionary pensions, Mr. B. said, was the next source which he would point out of those augmentations, which were so conspicuously depicted in the report; and here the prolific source of an immense augmentation was revealed. Forty thousand pensioners, including the invalids of the last war, started to our view; near

three millions of dollars were required to pay them, and he believed in 1833, it was near four millions. Who opened this fountain of executive patronage; this prolific source of expenditure and of revolutionary hero resurrection, which, at the end of half a century, is exhibiting a larger army on the pension roll than ever Washington saw, at any one time, on the muster roll; which furnishes the author of this report with upwards of one-third of his hundred thousand men: which is now making the Revolution cost more money than it cost while it was existing and raging; and which has produced a demoralization of morals, and a perpetration of crimes, as revolting to the mind as it is humiliating to the country? Who produced all this? Certainly not President Jackson! but the action of Congress, under executive recommendations, commencing at a period with which the author of this report must be most familiar, and carried on to the year 1832, when the system of pensioning received its climax in the law of that year, and in the production of consequences which astonish and afflict the country.

The removal of the Indians was the next source of increased expenditure, and increased agents, which Mr. B. adverted to; and on this head, far from disclaiming, he claimed the merit of it almost exclusively for President Jackson. It was he who had stood forth the true friend of the Indians, the true advocate and asserter of State rights, in relieving the Southern States of their Indian population, at the same time that he provided for these Indians themselves permanent, tranquil, unmolested, and far more desirable homes, in the rich and extended plains of the far West. In executing this policy, Congress acted under his recommendation; and to him the long-neglected and injured South—the States of Georgia, Alabama, and Mississippi, and the new States of the Northwest, Ohio, Indiana, Illinois, Missouri, are all, all indebted, for the advantages and blessings which they now enjoy in their freedom from the incubus of a useless and inimical population within their borders. The exodus of the Indians from the east to the west of the Mississippi—from the land of the white man to the land of the red man—under the guiding and protecting hand of President Jackson, has been to both parties, to the white race and to the red race, an auspicious and delightful consummation, on which Heaven has shed its benignant blessing, and which calls for the grateful emotions of every heart, white or red, civilized or savage, which can rejoice in the prosperity of the human race, and feel gratitude and thankfulness to its greatest and most eminent benefactor. But, above all, and more than all put together, should the State of Mississippi feel that gratitude. Hard was her fate until President Jackson ascended the presidential chair. The oldest Territory in the Union, a State for almost twenty years, a delicious climate, ample boundaries, lands adapted to the production of the richest staple, noble rivers—with all these advantages, her population remained a speck in the corner of her own extended map. The Chickasaws and Choctaws occupied the finest portions of her soil, and seemed destined to occupy them for ever under the abetment of a great political party, then called national republicans, now whigs, whose policy was as cruel to the Indians as it was unjust to the people, and subversive of the rights of the States. President Jackson appeared at the head of the national affairs. He was the slave of no selfish or ambitious policy; the hunter of no factitious and delusive popularity. He was the friend of the whites and of the reds; he spoke the language of truth, justice, wisdom, to both; and the long-depressed and obscure State of Mississippi finds herself, as if by magic, in the possession of all her rights, and all her soil, advancing with rapid strides to wealth and population; displaying a prodigious expansion of both, and ready, at the census of 1840, to present six or eight members on the floor of the House of Representatives, where, until lately, she had but one member, and now has but two. More! The graduation principle, by treaty, is adopted for the sale of the newly-acquired lands, descending down through successive gradations from $1 25, to six and a quarter cents per acre! So that this State has acquired, by treaty, under the auspices of President Jackson, the justice and the boon which her elder sisters have been in vain soliciting from Congress for so many years. For all this, that noble State is indebted to President Jackson; and it is as honorable to the inhabitants of that State, as it is just and right in itself, that the throb of gratitude beats in the hearts, and the sentiment of affectionate respect glows in the bosoms of almost the whole of her entire population. And shall the expense of these measures, the expense of freeing not only Mississippi, but the whole South, and the entire Northwest, from the encumbrance of an Indian population, be now set down, without explanation, in a grave report on executive patronage, as one of the wasteful extravagances of the day, which portends the decline and fall of the Republic, and calls for the trenchant hand of cutting reform, and the indignant verdict of public reprobation?

Closely allied to this head, that of removal of Indians, was another, which Mr. B. would mention, and which was too intimately connected with that head to require the detail of explanation. It was the great acquisition of lands, by the extinction of Indian titles; the fair and full price, now for the first time allowed for them, and that by an administration depicted as the destroying angel of the red race; the consequent increase of surveyors and land offices, and the additional expense resulting from all these wise and patriotic operations. They, too, belong to President Jackson's administration; and Mr. B. claimed the honor of them for him, instead of confounding the increased expenditure resulting from them, and the increased number of persons employed to execute them, in the indiscriminate mass of extravagances denounced.

Another subject he would mention, the great increase of the tariff in 1824 and 1828, on the eve of presidential elections, and the complicated nature of their provisions to prevent evasions, detect smuggling, give the full benefit of their enactments to the manufacturers, and to carry out the protective principle in the living bodies of revenue officers to defend it, as well as in the ramparts of parchments, intrenching it to the teeth, which Congress was piling up around it. Here was a great source of additional expense; additional officers and agents employed, and additional patronage conferred; and which now has brought the collection of the custom-house revenue to the inordinate expense of nine per centum. But who did all this? Not the administration; and therefore the remedy does not lie in the change of the administration; but Congress—Congress did it; and therefore the evil lies in the conduct of the immediate representatives of the people, and the remedy lies in the hands of the people themselves.

Mr. B. repeated, he concurred with the general purport and the general object of the report, in the great and striking augmentation which it presented, of money expended, and men employed or fed by the federal Government; and the necessity of great and real retrenchment in both particulars, especially as many of the objects for which they were incurred were temporary in their nature, and evanescent in their existence. Yes, said Mr. B., the augmentations have been great; but so far as they are of questionable propriety, they have had their root in previous administrations, some of them in the administration of Mr. Monroe, when the author of this report was a distinguished member of that adminis-

tration; others of these questionable measures had originated under Mr. Adams's administration, or in Congress itself, and under the high-pressure speeches, reports, and motions of gentlemen opposed to the administration of President Jackson. Try them, said Mr. B., examine them in detail, and you will find the great expenditures for objects of questionable propriety originated with others, while those of real expediency, of beneficial object, and clear constitutional propriety, owed their origin to the administration of President Jackson; and, what should never be forgotten, it was the exercise of the veto power by President Jackson which checked these extravagant expenditures of questionable objects, for which he received unmeasured denunciation! And let the people now mark it! This same President is now blamed just as much for not stopping, as he was blamed for stopping those wild expenditures.

But, Mr. B. said, while agreeing to much that was in the report, and agreeing that there was not only room but necessity for retrenchment, it would be unjust to the people, who have no means of detecting the delusive and fallacious statements which go forth with the high sanction of the Senate's approbation, to let this report go forth among them, to startle, alarm, disquiet, and amaze them with the idea that the expenses of the Government had doubled in nine years, from 1825 to 1833. Never was a wilder proposition presented to the intelligence of a rational people; not that the quantity of money paid out in the last of those two years, and that exclusive of the public debt in both instances, was not in reality double that of the former, but the fallacy and delusion lay in this: that those great additional payments were not for the expenses of the Government, not for ordinary, usual, current, and progressive expenditures, but for unusual, extraordinary, individual, isolated, and anomalous objects, occurring once, and but once, finished for ever when paid one time; some of them impossible, and others improbable to occur again; and therefore not fit to be held up among the current expenses and progressive extravagance of the Government.

The report, said Mr. B., assumes the years 1825 and 1833 for the comparison and contrast which it exhibits; the expenditure of the former being $11,500,000, that of the latter $22,750,000, and both exclusive of payments on account of the public debt; and this, as the reports affirms, "during a period of profound peace, when no event had occurred calculated to warrant any unusual expenditure." Now, said Mr. B., let us see what extraordinary expenditure fell upon that year 1833. First, there was the Black Hawk war, on the Upper Mississippi, which, though the fighting was done in 1832, yet the payments fell chiefly upon the ensuing year. Under this head alone there were payments in that year to near $900,000,* namely: to the militia and volunteers of Illinois, $442,000; for their subsistence, $186,000; for the conversion of rangers into a regiment of dragoons, $274,000. Then there was paid for duties refunded on merchandise to importing merchants, the sum of $701,760; then there was paid to claimants under the convention with Denmark, the sum of $663,000; and this was money not expended, nor even paid, in the sense of payment, but merely delivered to these claimants, the Government having received it from Denmark, for their use, some years ago, and now delivered it to those to whom a commission had awarded it. Then there were extraordinary Indian treaties that year for the purchase of land, for which $735,000 were paid; and removal of Indians, and subsisting them after they got to their new homes, the sum of $368,000. But the greatest extraordinary payment of the whole year was that of revolutionary pensions, under the fatal act of 1832. That act originated in Congress, and carried back its loose and wild provisions to take effect from the 4th of March, 1831. This threw the accumulated payments under that most unfortunate act, upon the year 1833; for all the remainder of the year 1832, in which the act was passed, was taken up in establishing the claims of persons to the benefit of the act. Thus the payments of 1832 were but $355,686, while, in 1833, they were ten times that sum, amounting, in fact, to $3,507,484. Putting these extraordinary payments together, said Mr. B., and you have a sum of about $7,000,000 at once to be deducted from the grand aggregate of $22,750,000, and he had no doubt but that a research into the whole list of extraordinaries for the same year would produce $1,000,000 more. Be that as it may, here is a sum of $7,000,000, not belonging to the current and progressive expenses of the Government, carried forward to the gross amount of such expenditure, and made the means of exhibiting a duplication of the expenses of the Government in the short space of eight years.* Here is the fallacy, here the delusion; and hence the injustice of basing upon this duplication a cry of such enormous extravagance as to justify revolution, if we cannot get reformation. For reformation there is room; for revolution there is no pretext: and the reformation of the ballot-box, Mr. B. confidently hoped, would answer the exigency, and bring down the expenses of the Government, properly so called—the expenses necessarily incurred in working the machinery of the Government—to a sum much below what it would be, even after deducting the seven or eight millions of extraordinaries from the gross expenditure of twenty-two millions and three-quarters in 1833.

To confirm his view, and to show that those seven or eight millions of extraordinaries ought not to be added to the ordinary expenditures of the Government, much less to be charged to its extravagance, and indicating a progressive expenditure which ought to rouse and alarm the country, Mr. B. would advert to the amount of the expenditures for the whole eight years comprehended in the report, premising that payments on account of the public debt are in all cases excluded. The successive annual expenditures then stand thus:

For 1825,	-	-	$11,490,459
1826,	-	-	13,062,916
1827,	-	-	12,653,095
1828,	-	-	13,296,041
1829,	-	-	12,659,490
1830,	-	-	13,229,533
1831,	-	-	13,864,067
1832,	-	-	16,516,388
1833,	-	-	22,713,755

From this view, Mr. B. said, the increase of expenditure would appear not quite so frightful as this report

* Precise sums are here substituted in the published speech for the general statements made in the speech when delivered. Mr. B. had heard the report read but once in the committee, and had not obtained, when he spoke, the precise detail of sums above enumerated. He obtained them afterwards, and produced, read, and commented upon them in the Senate; and therefore feels justifiable in substituting precise sums for the general statements which he could only make at this part of the spoken speech.

* As well might the $5,000,000 in the French spoliation bill, which has passed the Senate, and now lies in the House of Representatives, be set down, if it passes that body, also, among the Government expenditures for the year 1835, and carried forward to swell the aggregate of the year, to furnish contrasts, and excite discontent against an extravagant administration.

would represent. For the first year of the term the increase was about a million and a half; for the next five years there was no increase of any moment, and twice there was a diminution. The years 1832 and 1833 had run up to large amounts, and that by the means which he had shown; so that if the author of the report had taken for the basis of his comparison the seven years of regular expenditure, he would have found an increase of about two millions only, instead of a duplication of eleven millions; a result which, while it would have presented something for reformation, would have presented nothing for revolution, or even for turning out the party in power, and putting in their opponents, who are the real authors of every thing which requires reform.

Having shown the fallacy of the report in its exhibit of the extravagance of the Government; having shown its enormous error in stating that this great increase had taken place during a period of profound peace, when in fact there was an Indian war in the Upper Mississippi; and when not an event occurred to warrant unusual expenditure, when in fact $7,000,000 of the expenditures were for objects, not only unusual, but never existing before or since. Mr. B. would say a word, and but a word, upon its correlative part, the increase of persons paid by the Government or fed by its bounty. In 1825, the whole number was $55,777; in 1833, $107,073. This (said Mr. B.) is almost double; but how did it happen? Why, from carrying the pensioners up from about 17,000 to about 40,000! adding multitudes for internal improvement and custom-houses, in consequence of the two tariffs of 1824 and 1828; requiring many persons to superintend the removal of Indians; many to survey and sell the newly-acquired lands; and a whole regiment of dragoons for the defence of the Western frontier. In these items, and others, the source of the increased numbers will be found; some few of them necessary and indispensable, as that of the dragoons; some necessary and temporary, as those for removal of Indians and internal improvement; some lawful, though the expediency of the law questionable, as those for carrying into effect the complex provisions of the new tariff laws; some amazing, and almost incredible, as the increase of pensioners, the bare statement of whose numbers announces a fraud of stupendous magnitude, and implies a demoralization of public morals of frightful enormity.

The dismissions from office next engaged Mr. B's attention. The affected moderation of language under which this topic was brought forward in the report, and the violence with which it concluded, were particularly pointed out. Remarks of a party character were disclaimed, and the disclaimer was instantly followed by a series of the most violent and offensive remarks of a party character. The present administration was charged with having reduced to a system the practice of removing from office for opinion's sake. The assertion, though veiled, and slightly made to wear the form of hypothesis, was nevertheless clear and explicit in the report, that the honest and capable were dismissed to make room for the base and corrupt; that offices were the spoils of victory, the rewards of partisan service, and the means of substituting man-worship for patriotism, encouraging vice and discouraging virtue, preparing for the subversion of liberty and the establishment of despotism, and converting the entire body of office-holders into corrupt and supple instruments of power. Such, said he, was the language of a report which set out with a formal disclaimer of party spirit and partisan remarks. In defending the administration from such flagrant charges, Mr. B. would first discriminate between terms which had been much confounded and abused, and then show that the removals made by President Jackson, like those made by President Jefferson, were the legitimate results of the previous system of appointments, and were necessary not only to the safety and success of a democratic administration, but due, as an act of justice, to the great democratic party of the Union. Terms, he said, were confounded. When a man had been five, ten, twenty, forty years in office, and failed to be reappointed at the end of his second, third, fourth, or fifth term of four years, it was called a dismission, and the cry of persecution was set up. This, Mr. B. said, might be correct phraseology with those who thought offices ought to be for life, and eventually hereditary, but it was a phraseology repudiated in the democratic school, where the doctrine of right to office was repudiated, and the right of rotation was inculcated. With respect to the fact of dismissions, they resulted in general from appointments. The elder Mr. Adams appointed none but federalists; and Mr. Jefferson had to turn a portion of them out, in order to get in a portion of the republicans; and Mr. Jefferson had told him (Mr. B.) that he had never carried changes far enough; that he had not done justice to his own party. So of President Jackson; the younger Mr. Adams followed the plan of his father, and President Jackson had to follow the course of Mr. Jefferson. Mr. B. said that his recommendation for any office in his own State was worth nothing during the whole administration of Mr. Adams and the latter part of the administration of Mr. Monroe, and the State to this day contained some persons in office, his decided opponents, who were appointed under the two former administrations. Doubtless, said he, President Jackson had made some unfortunate appointments; he himself had made some unfortunate recommendations, though he had made but few; but it was incontestably true that many of those who had been dismissed, or not reappointed, were themselves proscribers of those who were in their power, dismissing not only clerks and under officers for political opinions, but mechanics, workmen, and laborers. Yes, the day-laborer, when he would not prostitute his vote to the national republicans and the bank, has been dismissed from his labor.

The unregulated state of the deposite banks was another source of executive patronage which the report had strongly and emphatically dwelt upon. Of all the matter contained in the report, nothing, (said Mr. B.,) except one thing, which he would mention in its proper place, had astonished him so much as this. Not that there was not increase of executive patronage from this source, but that the President should be reproached with it in this Senate, by the author of this report, and the majority of the committee from which it came. What is the fact, exclaimed Mr. B. Did not this Senate twice refuse, at their last session, to pass any law to regulate the deposite banks? Did not the majority of this committee twice refuse to pass a bill for that purpose? Did not the author of the report twice refuse to attempt to regulate these banks? Are the votes of these refusals recorded in our journals, preserved in memories, and known to the whole body of the American people? And, after that, is the Senate the place from which a reproach can come, and fearful, trembling, awful apprehensions for the safety of the Republic can be put forth on account of the unregulated condition of these deposite banks, without exciting, in the first place, a feeling of the utmost possible astonishment; and, in the next place, a feeling very different from astonishment, and of which the Senate should never aspire to make itself the object? Mr. B. would dismiss this topic with simply reciting the reminiscences, as the novel writers called it, which belonged to this occasion, and leave it to those who refused—twice refused—only nine months ago, to comply with the executive recommendation to regulate these banks, and now

reproach him because they are not regulated, and shiver with terror at such a state of things; and would leave it to them, and a pretty little task they might find it! to reconcile their conduct then with their conduct now.

The transfer drafts, said Mr. B., have claimed the attention of the report. They are proposed to be prohibited in future, except for the *bona fide* purpose of transferring public moneys from one place to another, for the benefit of the public service. To this Mr. B. had no objection. He was not in favor of using the power or the money of the federal Government to sustain banks in future. Time was when the Government was under a virtual duresse to do it. Fifteen or twenty years ago, for example, when the Government was itself dependant on the paper system, and was obliged to support that system to preserve its own revenues. Time was, also, when it was not only right, but laudable in the Government, to sustain the local banks; and that was at the commencement of the panic operations of the last year, when the explosion of the State banks was the criminal policy of the Bank of the United States; and the success of that policy was frustrated by the interposition of the Secretary of the Treasury, through the instrumentality of transfer drafts. But these times have gone by. They have passed away, and never can return until the federal Government shall commit the consummate folly of creating another mammoth bank, or entangling itself in the fate of local banks by continuing to treat their notes as money, and receiving the federal revenue in them. It is hoped that this folly will not be perpetrated; that no new bank is to be created to overthrow and to crush at pleasure all others; that the paper of local banks is not to be made the currency of the federal Government; but that the Government will, and that with all convenient speed, return to the currency of the constitution, and to the first act of the first Congress that ever sat under the constitution, and made a provision on the subject of money, and which declared that gold and silver coin only should be received in payments to the United States. For the future, then, Mr. B. was opposed to lending the aid of the federal Government to the support of banks. If they cannot stand, let them fall. Let them blow up if they will, sky-high, if they please; high enough never to fall back to the earth! But, while concurring with the report in the future restriction upon the use of transfer drafts, he took the opportunity, most emphatically, to dissent from the censure which the report, by implication, if not in words, threw upon Mr. Taney for the use he made of these drafts in the fall of 1833. He defended that use; he justified it; he extolled it: he celebrated it above all praise. What was that use? It was to prevent the success of crime, and to compel the observance of justice! to frustrate the conspiracy of the Bank of the United States against the local banks, and to compel her to treat her own notes, and those of her branches, as money. The case was this: Upon the removal of the deposites, many of the branches began to refuse to receive from the deposite banks the notes of the other branches, or of the mother bank, which had been received in payment of duties, and which the deposite banks offered to exchange for their own. Refusing this exchange, and demanding specie from the deposite banks for all their balances, the design of the federal bank was evident; it was to cripple and crush the State banks, destroy their currency, and upon their ruins erect the edifice of her own necessity, and supremacy, and recharter. Mr. Taney interposed to prevent this crime, this ruin, and this result. He gave drafts to the deposite banks, to be used upon condition, and on condition only, that the bank and its branches should continue to refuse to receive each others' notes, received on public account, in exchange for the notes of deposite banks, and demand specie from them; and the exhibition of these drafts in Baltimore and New York had the effect that was intended; it compelled the Bank of the United States and its branches to honor each others' paper, and to desist from that part of their atrocious and diabolical plan to break the deposite banks, and to derange the currency of the country.

Mr. B. said these were the facts which justified Mr. Taney for the use he had made of the transfer drafts; not only justified him, but entitled him to the highest praise. He contented himself now with stating these facts; on another occasion he would prove them. He had certain remarks to make on the report of the Finance Committee of the Senate, (Mr. TYLER's report on the bank,) in which this proof would find an appropriate place; and he was certain that the Senate would not deny him an opportunity of making his intended remarks. [Looking at Mr. TYLER, he repeated that the Sanate would not deny him that opportunity; and Mr. TYLER was understood to say that certainly he would not be denied.]

Mr. B. next came to the proposition in the report to amend the constitution for eight years, to enable Congress to make distribution among the States, Territories, and District of Columbia, of the annual surplus of public money. The surplus is carefully calculated at $9,000,000 per annum for eight years; and the rule of distribution assumed goes to divide that sum into as many shares as there are Senators and Representatives in Congress; each State to take shares according to her representation; which the report shows would give for each share precisely $30,405, and then leaves it to the State itself, by a little ciphering, in multiplying the aforesaid sum of $30,405 by the whole number of Senators and Representatives which it may have in Congress, to calculate the annual amount of the stipend it would receive.* This process the report extends through a period of eight years; so that the whole sum to be divided to the States, Territories, and District of Columbia, will amount to seventy-two millions of dollars.

Of all the propositions which he ever witnessed, brought forward to astonish the senses, to confound recollection, and to make him doubt the reality of a past or a present scene, this proposition, said Mr. B., eclipses and distances the whole! What! the Senate of the United States—not only the same Senate, but the same members, sitting in the same chairs, looking in each others' faces, remembering what each had said only a few short months ago—now to be called upon to make an alteration in the constitution of the United States, for the purpose of dividing seventy-two millions of surplus money in the treasury; when that same treasury was

* Mr. B., in a subsequent speech, told an amusing anecdote to the Senate, of the blunder into which a member had fallen with respect to the distribution of these $30,405. The first time that Mr. B. saw the member, after the report was read, he was violently for it, and wondered that any Senator or Representative should go against it. The next time he saw him, he was indifferent, and even contemptuous, to the report. Mr. B. desired to know the reason of this sudden change, and it was accounted for thus: When the member first heard the report read, he understood these $30,405 annually to be intended for the members themselves; but he now saw that every member would have to divide with his constituents, and he had 40,000 in his district, so that it reduced the thing to nothing; he would get but four shillings and six pence, Virginia money; and then he swore he would not change the constitution of the United States for four shillings and six pence, Virginia money.

was proclaimed, affirmed, vaticinated, and proved, upon calculations, for the whole period of the last session, to be sinking into bankruptcy! that it would be destitute of revenue by the end of the year, and could never be replenished until the deposites were restored! the bank rechartered! and the usurper and despot driven from the high place which he dishonored and abused! This was the cry then; the cry which resounded through this chamber for six long months, and was wafted upon every breeze to every quarter of the Republic, to alarm, agitate, disquiet, and enrage the people. The author of this report, and the whole party with which he marched under the *oriflamme* of the Bank of the United States, filled the Union with this cry of a bankrupt treasury, and predicted the certain and speedy downfall of the administration, from the want of money to carry on the operations of the Government.

[Mr. CALHOUN here rose and wished to know of Mr. BENTON whether he meant to include him in the number of those who had predicted a deficiency in the revenue.]

Mr. B. said he would answer the gentleman by telling him an anecdote. It was the story of a drummer taken prisoner in the low countries by the videttes of Marshal Saxe, under circumstances which deprived him of the protection of the laws of war. About to be shot, the poor drummer plead in his defence that he was a non-combatant; he did not fight and kill people; he did nothing, he said, but beat his drum in the rear of the line. But he was answered, so much the worse; that he made other poople fight, and kill one another, by driving them on with that drum of his in the rear of the line; and so he should suffer for it. Mr. B. hoped that the story would be understood, and that it would be received by the gentleman as an answer to his question; as neither in law, politics, or war, was there any difference between what a man did by himself, and did by another. Be that as it may, said Mr. B., the strangeness of the scene in which we are now engaged remains the same. Last year it was a bankrupt treasury, and a beggared Government; now it is a treasury gorged to bursting with surplus millions, and a Government trampling down liberty, contaminating morals, bribing and wielding vast masses of people, from the unemployable funds of countless treasures. Such are the scenes which the two sessions present; and it is in vain to deny it, for the fatal speeches of that fatal session have gone forth to all the borders of the Republic. They were printed here by the myriad, franked by members by the ton weight, freighted to all parts by a decried and overwhelmed Post Office, and paid for! paid for! by whom? Thanks for one thing, at least! The report of the Finance Committee on the bank (Mr. TYLER's report) effected the exhumation of one mass—one mass of hidden and buried putridity; it was the printing account of the Bank of the United States for that session of Congress which will long live in the history of our country under the odious appellation of the panic session. That printing account has been dug up; is the black vomit of the bank! and he knew the medicine which could bring forty such vomits from the foul stomach of the old red harlot. It was the medicine of a committee of investigation, constituted upon parliamentary principles; a committee composed, in its majority, of those who charged misconduct, and evinced a disposition to probe every charge to the bottom; such a committee as the Senate had appointed, at the same session, not for the bank, but for the Post Office.

Yes, exclaimed Mr. B., not only the treasury was to be bankrupt, but the currency was to be ruined. There was to be no money. The trash in the treasury, what little there was, was to be nothing but depreciated paper, the vile issues of insolvent pet banks. Silver, and United States Bank notes, and even good bills of exchange, were all to go off, all to take leave, and make their mournful exit together; and gold! that was a trick unworthy of countenance; a gull to bamboozle the simple, and to insult the intelligent, until the fall elections were over. Ruin, ruin, ruin to the currency, was the lugubrious cry of the day, and the sorrowful burden of the speech for six long months. Now, on the contrary, it seems to be admitted that there is to be money, real good money, in the treasury, such as the fiercest haters of the pet banks would wish to have; and that not a little, since seventy-two millions of surpluses are proposed to be drawn from that same empty treasury in the brief space of eight years. Not a word about ruined currency now. Not a word about the currency itself. The very word seems to be dropped from the vocabulary of gentlemen. All lips closed tight, all tongues hushed still, all allusion avoided, to that once dear phrase. The silver currency doubled in a year; four millions of gold coins in half a year; exchanges reduced to the lowest and most uniform rates; the whole expenses of Congress paid in gold; working people receiving gold and silver for their ordinary wages. Such are the results which have confounded the prophets of wo, silenced the tongues of lamentation, expelled the word currency from our debates, and brought the people to question, if it cannot bring themselves to doubt, the future infallibility of those undaunted alarmists who still go forward with new and confident predictions, notwithstanding they have been so recently and so conspicuously deceived in their vaticinations of a ruined currency, a bankrupt treasury, and a beggared Government.

But here we are, said Mr. B., actually engaged in a serious proposition to alter the constitution of the United States for the period of eight years, in order to get rid of surplus revenue; and a most dazzling, seductive, and fascinating scheme is presented; no less than nine millions a year for eight consecutive years. It took like wildfire, Mr. B. said, and he had seen a member—no, that might seem too particular—he had seen a gentleman who looked upon it as establishing a new era in the affairs of our America, establishing a new test for the formation of parties, bringing a new question into all our elections, State and federal, and operating the political salvation and elevation of all who supported it, and the immediate, utter, and irretrievable political damnation of all who opposed it. But Mr. B. dissented from the novelty of the scheme. It was an old acquaintance of his, only new vamped and new furnished, for the present occasion. It is the same proposition, only to be accomplished in a different way, which was brought forward some years ago by a Senator from New Jersey, [Mr. DICKERSON,] and which then received unmeasured condemnation, not merely for unconstitutionality, but for all its effects and consequences; the degradation of mendicant States, receiving their annual allowance from the bounty of the federal Government; the debauchment of the public morals, when every citizen was to look to the federal treasury for money, and every candidate for office was to outbid his competitor in offering it; the consolidation of the States, thus resulting from a central supply of revenue; the folly of collecting with one hand to pay back with the other, and both hands to be greased at the expense of the citizen, who pays one man to collect the money from him, and another to bring it back to him, *minus* the interest and the cost of a double operation in fetching and carrying; and the eventual and inevitable progress of the scheme to the plunder of the weaker half of the Union by the stronger; when the stronger half would undoubtedly throw the whole burden of raising the money upon the weaker half, and then take the main portion to themselves. Such were the main objections uttered against this plan seven years

ago, when a gallant son of South Carolina [General Hayne] stood by his (Mr. B's) side—no, stood before him, and led him in the fight against that fatal and delusive scheme, now brought forward under a more seductive, dangerous, alarming, inexcusable, unjustifiable, and demoralizing form.

Yes, said Mr. B., it is not only the revival of the same plan for dividing surplus revenue, which received its condemnation on this floor seven or eight years ago, but it is the modification, and that in a form infinitely worse for the new States, of the famous land bill which now lies upon our table. It takes up the object of that bill, and runs away with it, giving nine millions where that gave three, and leaves the author of that bill out of sight behind; and can the gentleman from South Carolina [Mr. CALHOUN] be so short-sighted as not to see that somebody will play him the same prank, and come forward with propositions to raise and divide twenty, thirty, forty millions, and thus outleap, outjump, and outrun, him in the race of popularity, just as far as he himself has now outjumped, outleaped, and outrun, the author of the land distribution bill?

Yes, said Mr. B., this scheme for dividing surplus revenue is an old acquaintance on this floor; but never did it come upon this floor at a time so inauspicious, under a form so questionable, and upon assumptions so unfounded in fact, so delusive in argument. He would speak of the inauspiciousness of the time hereafter; at present, he would take positions in direct contradiction to all the arguments of fact and reason upon which this monstrous scheme of distribution is erected and defended. Condensed into their essence, these arguments are:

1. That there will be a surplus of nine millions annually for eight years.

2. That there is no way to reduce the revenue.

3. That there is no object of general utility to which these surpluses can be applied.

4. That distribution is the only way to carry them off without poisoning and corrupting the whole body politic.

Mr. B. disputed the whole of those propositions, and would undertake to show each to be unfounded and erroneous.

1. The report says that the surplus will probably equal, on the average, for the next eight years, the sum of $9,000,000 beyond the just wants of the Government;* and in a subsequent part it says, supposing the surplus to be distributed should average $9,000,000, annually, as estimated, it would give to each share $30,405, which, multiplied by the Senators and Representatives of any State, would show the sum to which it would be entitled.† The amendment which has been reported to carry this distribution into effect is to take effect for the year 1835—the present year—and to continue till the 1st day of January, 1843; of course it is inclusive of 1842, and makes a period of eight years for the distribution to go on. The amendment contains a blank, which is to be filled up with the sum which is to be left in the treasury every year, to meet contingent and unexpected demands; and the report shows that this blank is to be filled with the sum of $2,000,000. Here, then, is the totality of these surpluses, eleven millions a year for eight consecutive years, but of which nine millions are to be taken annually for distribution. Now, nine times eight are seventy-two, so that here is a report setting forth the enormous sum of $72,000,000 of mere surplus, after satisfying all the just wants of the Government, and leaving two millions in the treasury, to be held up for distribution, and to excite the people to clamor for their shares of such a great and dazzling prize. At the same time, Mr. B. said, there would be no such surplus. It was a delusive bait held out to whet the appetite of the people for the spoils of their country, and could never be realized, even if the amendment for authorizing the distribution should now pass. The seventy-two millions could never be found; they would exist no where but in this report, in the author's imagination, and in the deluded hopes of an excited community. The seventy-two millions could never be found; they would turn out to be the "fellows in Kendal green and buckram suits," which figured so largely in the imagination of Sir John Falstaff—the two-and-fifty men in buckram which the valiant old knight received upon his point thus! (extending a pencil in the attitude of defence.) The calculations of the author of the report were wild, delusive, astonishing, incredible. He (Mr. B.) could not limit himself to the epithet wild, for it was a clear case of hallucination.

Mr. B. then took up the Treasury report of Mr. Secretary Woodbury, communicated at the commencement of the present session of Congress, and containing the estimates required by law of the expected income and expenditure for the present year, and also for the year 1836. At pages 4 and 5 are the estimates for the present year; the income estimated at $20,000,000, the expenditures at $19,683,540; being a difference of only some three hundred thousand dollars between the income and the outlay; and such is the chance for nine millions taken, and two left in, the first year of the distribution. At pages 10, 14, 15, the revenue for 1836 is computed; and, after going over all the heads of expense on which diminutions will probably be made, he computes the income and outlay of the year at about equal or probably a little surplus to the amount of one million. These are the estimates, said Mr. B., formed upon data, and coming from an officer making reports upon his responsibility, and for the legislative guidance of Congress; and to which we are bound to give credence until they are shown to be incorrect. Here, then, are the first two years of the eight disposed of, and nothing found in them to divide. The last two years of the term could be despatched even more quickly, said Mr. B., for every body that understands the compromise act of March, 1833, must know that, in the last two years of the operation of that act, there would be an actual deficit in the treasury. Look at the terms of the act! It proceeds by slow and insensible degrees, making slight deductions once in two years, until the years 1841 and 1842, when it ceases crawling, and commences jumping, and leaps down, at two jumps, to twenty per centum on the value of the articles which pay duty, which articles are less than one-half of our importation. Twenty per cent. upon the amount of goods which will then pay duty will produce but little, say twelve or thirteen millions, upon the basis of sixty or seventy millions of dutiable articles imported then, which only amount to forty-seven millions now. Then there will be no surplus at all for one-half the period of eight years, the first two and the last two. In the middle period of four years there will probably be a surplus of two or three millions; but Mr. B. took issue upon all the allegations with respect to it; as that there was no way to reduce the revenue without disturbing the compromise act of March, 1833; that there was no object of general utility to which it could be applied; and that distribution was the only way to get rid of it.

Equally delusive and profoundly erroneous was the gentleman's idea of the surplus which could be taken out of the appropriations. True, that operation could be performed once, and but once. The run of our Treasury payments show that about one quarter of the year's expenditure is not paid within the year, but the first quarter of the next year, and thus could be paid out of the

* Page 18. † Page 22.

revenue received in the first quarter of the next year, even if the revenue of the last quarter of the preceding year was thrown away. But this was a thing which could only be done once. You might rely upon the first quarter, but you could not upon the second, third, and fourth. There would not be a dollar in the treasury at the end of four years, if you deducted a quarter's amount four times successively. It was a case, if a homely adage might be allowed, which would well apply—you could not eat the cake and have it too. Mr. B. submitted it, then, to the Senate, that, on the first point of objection to the report, his issue was maintained. There was no such surplus of nine millions a year for eight years, as had been assumed, nor any thing near it; and this assumption being the corner stone of the whole edifice of the scheme of distribution, it was sufficient to show the fallacy of that data to blow the whole scheme into the empty air.

Mr. B. admonished the Senate to beware of ridicule. To pass a solemn vote for amending the constitution, for the purpose of enabling Congress to make distribution of surpluses of revenue, and then find no surplus to distribute, might lessen the dignity and diminish the weight of so grave a body. It might expose it to ridicule; and that was a hard thing for public bodies, and public men, to stand. The Senate had stood much in its time; much in the latter part of Mr. Monroe's administration, when the Washington Republican habitually denounced it as a faction, and displayed many brilliant essays, written by no mean hand, to prove that the epithet was well applied, though applied to a majority. It had stood much, also, during the four years of the second Mr. Adams's administration; as the surviving pages of the defunct National Journal could still attest: but in all that time it stood clear of ridicule; it did nothing upon which saucy wit could lay its lash. Let it beware now! for the passage of this amendment may expose it to untried peril; the peril of song and caricature. And wo to the Senate, farewell to its dignity, if it once gets into the windows of the print-shop, and becomes the burden of the ballads which the milkmaids sing to their cows.

2. Mr. B. took up his second head of objection. The report affirmed that, there was no way to reduce the revenue before the end of the year 1842, without violating the terms of the compromise act of March, 1833. Mr. B. said he had opposed that act when it was on its passage, and had then stated his objections to it. It was certainly an extraordinary act, a sort of new constitution for nine years, as he had heard it felicitously called. It was made in an unusual manner, not precisely by three men on an island on the coast of Italy, but by two in some room of a boarding-house in this city, and then pushed through Congress under a press of sail, and a duresse of feeling, under the factitious cry of dissolution of the Union, raised by those who had been declaring, on one hand, that the tariff could not be reduced without dissolving the Union, and on the other, that it could not be kept up without dissolving the same Union. The value of all such cries, Mr. B. said, would be appreciated in future, when it was seen with how much facility certain persons who had stood under the opposite poles of the earth, as it were, on the subject of the tariff, had come together to compromise their opinions, and to lay the tariff on the shelf for nine years! a period which covered two presidential elections! That act was no favorite of his, but he would let it alone; and thus leaving it to work out its design for nine years, he would say there were ways to reduce the revenue, very sensibly, without affecting the terms or the spirit of that act. And here he would speak upon data. He had the authority of the Secretary of the Treasury (Mr. Woodbury) to declare that he believed he could reduce the revenue in this way and upon imports to the amount of five hundred thousand dollars; and he, Mr. B., should submit a resolution calling upon the Secretary to furnish the detail of this reduction to the Senate at the commencement of their next stated session, that Congress might act upon it. Further, Mr. B. would say, that it appeared to him that the whole list of articles in the fifth section of the act, amounting to thirty or forty in number, and which by that section are to be free of duty in 1842, and which in his opinion might be made free this day, and that not only without injury to the manufacturers, but with such manifest advantage to them, that, as an equivalent for it, and for the sake of obtaining it, they ought to come forward of themselves, and make a voluntary concession of reductions on some other points, especially on some classes of woollen goods.

Having given Mr. Woodbury's authority for a reduction of $500,000 on imports, Mr. B. would show another source from which a much larger reduction could be made, and that without affecting this famous act of March, 1833, in another and a different quarter; it was in the Western quarter, the new States, the public lands! The act of 1833 did not embrace this source of revenue, and Congress was free to act upon it, and to give the people of the new States the same relief on the purchase of the article on which they chiefly paid revenue as it had done to the old States in the reduction of the tariff. Mr. B. did not go into the worn out and exploded objections to the reduction of the price of the lands which the report had gathered up from their old sleeping places, and presented again to the Senate. Speculators, monopolies, the fall in the price of real estate all over the Union; these were exploded fallacies which he was sorry to see paraded here again, and which he should not detain the Senate to answer. Suffice it to say, that there is no application made now, made heretofore, or intended to be made, so far as he knew, to reduce the price of new land! One dollar and a quarter was low enough for the first choice of new lands; but it was not low enough for the second, third, fourth, and fifth choices! It was not low enough for the refuse lands which had been five, ten, twenty, forty years in market, and which could find no purchaser at $1 25, for the solid reason that they were worth but the half, the quarter, the tenth part, of that sum. It was for such lands that reduction of price was sought, and had been sought for many years, and would continue to be sought until it was obtained; for it was impossible to believe that Congress would persevere in the flagrant injustice of for ever refusing to reduce the price of refuse and unsaleable lands to their actual value. The policy of President Jackson, communicated in his messages, Mr. B. said, was the policy of wisdom and justice. He was for disposing of the lands more for the purpose of promoting settlements, and creating freeholders, than for the purpose of exacting revenue from the meritorious class of citizens who cultivate the soil. He would sell the lands at prices which would pay expenses—the expense of acquiring them from the Indians, and surveying and selling them; and this system of moderate prices with donations, or nominal sales to actual settlers, would do justice to the new States, and effect a sensible reduction in the revenue; enough to prevent the necessity of amending the constitution to get rid of nine million surpluses! But whether the price of lands was reduced or not, Mr. B. said, the revenue from that source would soon be diminished. The revenue had been exorbitant from the sale of lands for three or four years past. And why? Precisely because immense bodies of new lands, and much of it in the States adapted to the production of the great staples which now bear so high a price, have, within that period, come into market; but these fresh lands must soon be exhausted; the old and refuse only will remain for sale; and the revenue from that source will sink down to its former usual amount,

instead of remaining at three millions a year for nine years, as the report assumes.

3. When he had thus shown that a diminution of revenue could be effected, both on imports and on refuse and unsaleable lands, Mr. B. took up the third issue which he had joined with the report; namely, the possibility of finding an object of general utility on which the surpluses could be expended. The report affirmed there was no such object; he, on the contrary, affirmed that there were such; not one, but several, not only useful, but necessary; not merely necessary, but exigent; not exigent only, but in the highest possible degree indispensable and essential. He alluded to the whole class of measures connected with the general and permanent defence of the Union! In peace, prepare for war! is the admonition of wisdom in all ages and in all nations; and sorely and grievously has our America heretofore paid for the neglect of that admonition. She has paid for it in blood, in money, and in shame. Are we prepared now? And is there any reason why we should not prepare now? Look at your maritime coast, from Passamaquoddy bay to Florida point; your gulf coast, from Florida point to the Sabine; your lake frontier, in its whole extent. What is the picture? Almost destitute of forts, and, it might be said, quite destitute of armament. Look at your armories and arsenals—too few and too empty; and the West almost destitute! Look at your militia, many of them mustering with corn stalks; the States deficient in arms, especially in field artillery, and in swords and pistols for their cavalry! Look at your navy; slowly increasing under an annual appropriation of half a million a year, instead of a whole million, at which it was fixed soon after the late war, and from which it was reduced some years ago, when money ran low in the treasury! Look at your dock yards and navy yards; thinly dotted along the maritime coast, and hardly seen at all on the gulf coast, where the whole South, and the great West, so imperiously demand naval protection! Such is the picture; such the state of our country; such its state at this time, when even the most unobservant should see something to make us think of defence! Such is the state of our defences now, with which, oh! strange and wonderful contradiction! the administration is now reproached, reviled, flouted, and taunted, by those who go for distribution, and turn their backs on defence! and who complain of the President for leaving us in this condition, when five years ago, in the year 1829, he recommended the annual sum of $250,000 for arming the fortifications, (which Congress refused to give,) and who now are for taking the money out of the treasury, to be divided among the people, instead of turning it all to the great object of the general and permanent defence of the Union, for which they were so solicitous, so clamorous, so feelingly alive, and patriotically sensitive, even one short month ago.

Does not the present state of the country (said Mr. B.) call for defence? and is not this the propitious time for putting it in defence? and will not that object absorb every dollar of real surplus that can be found in the treasury for these eight years of plenty, during which we are to be afflicted with seventy-two millions of surplus? Let us see. Let us take one single branch of the general system of defence, and see how it stands, and what it would cost to put it in the condition which the safety and the honor of the country demanded. He spoke of the fortifications, and selected that branch, because he had data to go upon; data to which the Senator from South Carolina, the author of this report, could not object.

The design (said Mr. B.) of fortifying the coasts of the United States is as old as the Union itself. Our documents are full of executive recommendations, departmental reports, and reports of committees upon this subject, all urging this great object upon the attention of Congress. From 1789, through every succeeding administration, the subject was presented to Congress; but it was only after the late war, and when the evils of a defenceless coast were fresh before the eyes of the people, that the subject was presented in the most impressive, persevering, and systematic form. An engineer of the first rank (General Bernard) was taken into our service from the school of the great Napoleon. A resolution of the House of Representatives called on the War Department for a plan of defence, and a designation of forts adequate to the projection of the country; and upon this call examinations were made, estimates framed, and forts projected for the whole maritime coast from Savannah to Boston. The result was the presentation, in 1821, of a plan for ninety forts upon that part of the coast; namely, twenty-four of the first class; twenty-three of the second; and forty-three of the third. Under the administration of Mr. Monroe, and the urgent recommendations of the then head of the War Department, (Mr. Calhoun,) the construction of these forts was commenced, and pushed with spirit and activity; but, owing to circumstances not necessary now to be detailed, the object declined in the public favor, lost a part of its popularity, perhaps justly, and has since proceeded so slowly that, at the end of twenty years from the late war, no more than thirteen of these forts have been constructed; namely, eight of the first class, three of the second, and two of the third; and of these thirteen constructed, none are armed; almost all of them are without guns or carriages, and more ready for the occupation of an enemy than for the defence of ourselves. This is the state of fortifications on the maritime coast, exclusive of the New England coast to the north of Boston, exclusive of Cape Cod, south of Boston, and exclusive of the Atlantic coast of Florida. The lake frontier is untouched. The gulf frontier, almost two thousand miles in length, barely is dotted with a few forts in the neighborhood of Pensacola, New Orleans, and Mobile; all the rest of the coast may be set down as naked and defenceless. This was our condition. Now, Mr. B. did not venture to give an opinion that the whole plan of fortifications developed in the reports of 1821 should be carried into effect; but he would say, and that most confidently, that much of it ought to be; and it would be the business of Congress to decide on each fort in making a specific appropriation for it. He would also say that many forts would be found to be necessary which were not embraced in that plan; for it did not touch the lake coast, and the gulf coast, nor the New England coast north of Boston, nor any point of the land frontier. Without going into the question at all, of how many were necessary, or where they should be placed, it was sufficient to show that there were enough wanting, beyond dispute, to constitute an object of utility, worthy of the national expenditure, and sufficient to absorb, not nine millions of annual surplus, to be sure, but about as many millions of surplus as would ever be found, and the bank stock into the bargain. The thirteen forts constructed had cost twelve millions one hundred and thirteen thousand dollars; near one million of dollars each. But this was for construction only; the armament was still to follow; and for this object two millions were estimated in 1821 for the ninety forts then recommended, and of that two millions it may be assumed that but little has been granted by Congress. So much for fortifications; in itself a single branch of defence, and sufficient to absorb many millions.

But there were many other branches of defence which, Mr. B. said, he would barely enumerate. There was the navy, including its gradual increase, its dock yards,

its navy yards; then the armories and arsenals, which were so much wanted in the South and West, and especially in the South, for a reason (besides those which apply to foreign enemies) which need not be named; then the supply of arms to the States, especially field artillery, swords, and pistols, for which an annual but inadequate appropriation had been made for so long a time that he believed the States had almost forgot the subject. Here are objects enough, Mr. President, exclaimed Mr. B., to absorb every dollar of our surplus, and the bank stock besides. The surpluses, he was certain, would be wholly insufficient, and the bank stock, by a solemn resolution of the two Houses of Congress, should be devoted to the object. As a fund was set apart, and held sacred and inviolable, for the payment of the public debt, so should a fund be now created for national defence, and this bank stock should be the first and most sacred item put into it. It is the only way to save that stock from becoming the prey of incessant contrivances to draw money from the treasury. Mr. B. said that he intended to submit resolutions, requesting the President to cause to be communicated to the next Congress full information upon all the points that he had touched, the probable revenue and expenditure for the next eight years; the plan and expense of fortifying the coast; the navy, and every other point connected with the general and permanent defence of the Union, with a view to let Congress take it up, upon system, and with a design to complete it without further delay.* And he demanded, why hurry on this amendment before that information can come in?

Now is the auspicious moment, said Mr. B., for the Republic to rouse from the apathy into which it has lately sunk on the subject of national defence. The public debt is paid; a sum of six or seven millions will come from the bank; some surpluses may occur; let the national defence become the next great object after the payment of the debt, and all spare money go to that purpose. If further stimulus were wanted, it might be found in the present aspect of our foreign affairs, and in the reproaches, the taunts, and in the offensive insinuations which certain gentlemen have been indulging in for two months with respect to the defenceless state of the coast, and which they attribute to the negligence of the administration. Certainly such gentlemen will not take that money for distribution, for the immediate application of which their defenceless country is now crying aloud, and stretching forth her imploring hands.

Mr. B. would here avail himself of a voice more potential than his own to enforce attention to the great object of national defence, the revival of which he was now attempting. It was a voice which the Senator from South Carolina, the author of this proposition to squander in distributions the funds which should be sacred to defence, would instantly recognise. It was an extract from a message communicated to Congress, December 3, 1822, by President Monroe. Whether considered under the relation of similarity which it bears to the language and sentiments of cotemporaneous reports from the then head of the War Department; the position which the writer of those reports then held in relation to President Monroe; the right which he possessed, as Secretary of War, to know, at least, what was put into the message in relation to measures connected with his Department; considered under any and all of these aspects, the extracts which he was about to read might be considered as expressing the sentiments, if not speaking the words, of the gentleman who now sees no object of utility in providing for the defence of his country, and who then plead the cause of that defence with so much truth and energy, and with such commendable excess of patriotic zeal.

Mr. B. then read as follows:

"Should war break out in any of those countries, [the European,] who can foretell the extent to which it may be carried, or the desolation which may spread? Exempt as we are from these causes, [of European civil wars,] our internal tranquillity is secure; and distant as we are from the troubled scene, and faithful to just principles in regard to other Powers, we might reason-

*The resolutions, embracing twelve heads of inquiry, have been submitted. They are the following:

Resolved, That the President be requested to cause information to be laid before the Senate, at the commencement of the next session of Congress, on the following points:

1. The amount of revenue which may be reduced on dutiable articles, without affecting the protection intended to be continued by the act of March 2, 1833, to domestic manufactures.

2. The amount of nett revenue which will probably be received from customs from 1836 to 1842, inclusively.

3. The amount of revenue which will probably be received from public lands for the same period, if no change takes place in the price of lands.

4. The amount of revenue from the same source, if the price of the refuse lands should be reduced, and the lands should be so disposed of as to promote the settlement of the country, and should cease to be a source of revenue, except to defray the expense of their management, and of extinguishing the Indian titles.

5. The times and proportions in which the amount of stock held in the Bank of the United States will probably be returned to the treasury, if no act be passed by Congress for the sale of said stock.

6. The probable amount of the expenditures of the Government annually to the end of the year 1842.

7. The state of the fortifications, so as to show the number of forts of the first, second, and third classes, now constructed in the United States; the number heretofore proposed and recommended by the War Department, but not yet constructed; and the number which would probably be necessary to the complete an adequate defence of the lake, maritime, and Gulf frontiers of the United States, and such points of the land frontier as may be believed to require permanent fortifications.

8. The amount expended, since 1816, in constructing forts, and the amount that would be necessary to complete the construction of the entire system of permanent fortifications for the United States.

9. The amount which has been expended, since 1816, in providing for the fortifications, and the amount which would probably be necessary to complete the armament of all fortifications required for the defence of the United States.

10. The amount which would probably be necessary to construct an adequate number of armories and arsenals in the United States, and to supply the States with field artillery, especially brass pieces, for their militia, and with side-arms and pistols for their cavalry.

11. The amount expended, since 1816, in the gradual increase of the navy, on navy yards and dock yards, and the amount necessary to be expended on each of these objects, to place the naval defence of the United States upon the footing of strength and respectability which is due to the security and the welfare of the Union.

12. And that the President be requested to cause to be communicated to the Senate, at the same time, any other information connected with the revenue and expenditure of the Government, and with the defence of the Union, which shall come within the scope of the foregoing inquiries, or which, in his judgment shall be necessary to be communicated.

ably presume that we should not be molested by them. This, however, ought not to be calculated on as certain. Unprovoked injuries are often inflicted, and even the peculiar felicity of our situation might, with some, be a cause of excitement and aggression. The history of the late wars in Europe furnishes a complete demonstration that no system of conduct, however correct in principle, can protect neutral Powers from injury from any party; that a defenceless position and distinguished love of peace are the surest invitations to war; and that there is no way to avoid it, other than by being always prepared, and willing, for just cause, to meet it. If there be a people on earth, whose more especial duty it is to be at all times prepared to defend the rights with which they are blessed, and to surpass all others in sustaining the necessary burdens, and in submitting to sacrifices to make such preparations, it is undoubtedly the people of these States."

Mr. B. having read thus far, stopped to make a remark, and but a remark, upon a single sentiment in it. He would not weaken the force and energy of the whole passage by going over it in detail; but he invoked attention upon the last sentiment—our peculiar duty, so strongly painted, to sustain burdens, and submit to sacrifices, to accomplish the noble object of putting our country into an attitude of defence! The ease with which we can prepare for the same defence now, by the facile operation of applying to that purpose surpluses of revenue and bank stock, for which we have no other use, was the point on which he would invoke and arrest the Senate's attention.

Mr. B. resumed his reading, and read the next paragraph, which enumerated all the causes which might lead to general war in Europe, and our involvement in it, and concluded with the declaration "That the reasons for pushing forward all our measures of defence, with the utmost vigor, appear to me to acquire new force." And then added, these causes for European war are now in as great force as then; the danger of our involvement is more apparent now than then; the reasons for sensibility to our national honor are nearer now than then; and upon all the principles of the passage from which he was reading, the reasons for pushing forward all our measures of defence with the utmost vigor, possessed far more force in this present year 1835, than they did in the year 1822.

Mr. B. continued to read:

"The United States owe to the world a great example, and, by means thereof, to the cause of liberty and humanity a generous support. They have so far succeeded to the satisfaction of the virtuous and enlightened of every country. There is no reason to doubt that their whole movement will be regulated by a sacred regard to principle, all our institutions being founded on that basis. The ability to support our own cause, under any trial to which it may be exposed, is the great point on which the public solicitude rests. It has often been charged against free Governments, that they have neither the foresight nor the virtue to provide at the proper season for great emergencies; that their course is improvident and expensive; that war will always find them unprepared; and, whatever may be its calamities, that its terrible warnings will be disregarded and forgotten as soon as peace returns. I have full confidence that this charge, so far as it relates to the United States, will be shown to be utterly destitute of truth."

Mr. B., as he closed the book, said, he would make a few remarks upon some of the points in this passage, which he had last read—the reproach so often charged upon free Governments for want of foresight and virtue, their improvidence and expensiveness, their proneness to disregard and forget in peace the warning lessons of the most terrible calamities of war. And he would take the liberty to suggest that, of all the mortal beings now alive upon this earth, the author of the report under discussion ought to be the last to disregard and to forget the solemn and impressive admonition which the passage conveyed! the last to so act as to subject his Government to the mortifying charge which has been so often cast upon them! the last to subject the virtue of the people to the humiliating trial of deciding between the defence and the plunder of their country!

Mr. B. dwelt a moment on another point in the passage which he had read—the great example which this Republic owed to the world, and to the cause of free Governments, to prove itself capable of supporting its cause under every trial; and that by providing in peace for the dangers of war. It was a striking point in the passage, and presented a grand and philosophic conception to the reflecting mind. The example to be shown to the world, and the duty of this Republic to exhibit it, was an elevated and patriotic conception, and worthy of the genius which then presided over the War Department. But what is the example which we are now required to exhibit? It is that of a people preferring the spoils of their country to its defence! It is that of the electioneerer, going from city to city, from house to house, even to the uninformed tenant of the distant hamlet, who has no means of detecting the fallacies which are brought from afar to deceive his understanding: it is the example of this electioneerer, with slate and pencil in his hand, (and here Mr. B. took up an old book cover, and a pencil, and stooped over it to make figures, as if working out a little sum in arithmetic,) it is the example of this electioneerer offering for distribution that money which should be sacred to the defence of his country, and pointing out for overthrow, at the next election, every candidate for office who should be found in opposition to this wretched and deceptive scheme of distribution. This is the example which it is proposed that we should now exhibit. And little did it enter into his (Mr. B's) imagination, about the time that message was written, that it should fall to his lot to plead for the defence of his country against the author of this report. He admired the grandeur of conception which the reports of the War Office then displayed. He said he differed from the party with whom he then acted, in giving a general, though not a universal, support to the Secretary of War. He looked to him as one who, when mellowed by age and chastened by experience, might be among the most admired Presidents that ever filled the presidential chair. [Mr. B., by a *lapsus linguæ*, said throne, but corrected the expression on its echo from the galleries.]

Mr. B. said there was an example which it was worthy to imitate: that of France; her coast defended by forts and batteries, behind which the rich city reposed in safety—the tranquil peasant cultivated his vine in security—while the proud navy of England sailed innoxious before them, a spectacle of amusement, not an object of terror. And there was an example to be avoided: the case of our own America during the late war; when the approach of a British squadron, upon any point of our extended coast, was the signal for flight, for terror, for consternation; when the hearts of the brave and the almost naked hands of heroes were the sole reliance for defence; and where those hearts and those hands could not come, the sacred soil of our country was invaded; the ruffian soldier and the rude sailor became the insolent masters of our citizens' houses; their footsteps marked by the desolation of fields, the conflagration of cities, the flight of virgins, the violation of matrons! the blood of fathers, husbands, sons! This is the example which we should avoid!

But the amendment is to be temporary: it is only to last until 1842. What an idea!—a temporary alteration in a constitution made for endless ages! But let no one think it will be temporary, if once adopted. No! if the people once come to taste that blood; if they once bring themselves to the acceptance of money from the treasury, they are gone for ever. They will take that money in all time to come; and he that promises most, receives most votes. The corruption of the Romans, the debauchment of the voters, the venality of elections, commenced with the Tribunitial distributions of corn out of the public granaries; it advanced to the distribution of the spoils of foreign nations, brought home to Rome by victorious generals and divided out among the people; it ended in bringing the spoils of the country into the canvass for the consulship, and in putting up the diadem of empire itself to be knocked down to the hammer of the auctioneer. In our America there can be no spoils of conquered nations to distribute. Her own treasury—her own lands—can alone furnish the fund. Begin it once, no matter how, or upon what—surplus revenue, the proceeds of the lands, or the lands themselves—no matter; the progress and the issue of the whole game is as inevitable as it is obvious. Candidates bid, the voters listen; and a plundered and pillaged country—the empty skin of an immolated victim—is the prize and the spoil of the last and the highest bidder.

When Mr. BENTON had concluded,

Mr. LEIGH rose and said that the credit or discredit of originating the proposition to divide the surplus revenue among the States did not belong to this committee, but to the President of the United States. Mr. L. said his attention was turned to the message in consequence of the speech of the honorable gentlemen from Missouri.

[Mr. L. here read extracts from the President's message of 1830-'31.]

Mr. CALHOUN said that he rose to make a very few remarks, in reply to the member from Missouri; and he must say that, in the long speech with which he had entertained the Senate, there was very little that was relevant or deserving of notice.

He commenced, said Mr. C., with blaming me for not going into the cause of the late enormous increase of patronage, which he admits to be as great as is stated in the report: I answer him that the reason why he has gone into the cause of the increase is the reverse of that which has governed me in abstaining. His object is to defeat—mine to carry the measure. He well knew that an inquiry of the kind must necessarily lead to crimination and recrimination, and ultimately to the excitement of those party feelings which must defeat the application of any remedy to the disease which is acknowledged on all sides to afflict the body politic. I must, said Mr. C., be permitted to express my surprise at the zeal which the Senator has displayed to defeat the report of the committee. This is not the first time that he has been charged with an inquiry into executive patronage. He was chairman of the committee in 1826 which had this subject under investigation. He even at that early period took the strongest ground against executive patronage, and portrayed, in the most vivid colors, the dangers which then threatened our institutions and liberty. And now, when it has been demonstrated that patronage has more than doubled, and when it has been shown that the danger to which we were exposed from this enormous increase is of the most alarming character, he rises in his place, and, instead of aiding the application of some efficient remedy, he makes the most strenuous efforts to distract and divert the public attention, by entering into an untimely party inquiry into the cause of this increase of patronage. My surprise does not stop here. The nature of the remedy which he proposes against this alarming growth of executive patronage, which he dare not deny, is no less extraordinary than the contrast between his course in 1826 and now. He gravely proposes, as a remedy for the disease, that the surplus revenue shall be expended on fortifications along the coasts! Where has the Senator been for the last two or three years? Has he not been in his seat? Has he not been chairman of the Committee on Military Affairs, and has he not been silent on the subject of fortification all this time, although he has yearly witnessed millions of money wasted on useless and unnecessary objects of expenditure? Is he sincere? How, then, can he justify his long silence upon the subject which he now holds out to be of such immense importance? Is he not sincere? How can he justify his acting such a part in the face of the Senate?

But feeling the dilemma in which he was placed between his past and his present course, he has undertaken, with the boldest assertion, not to say offensive, to deny that there will be any surplus revenue—to anticipate which, he has pronounced to be not only wild and visionary, but a perfect hallucination. After such strong asseverations, one would have expected some demonstrative proof of gross and palpable error in the estimate of the future increase which the committee has presented. Has he shown any? No; he has not even attempted it. He has not even made an effort to point out a single error, either in data or conclusion. On what, then, does he rely to justify his bold and offensive assertion? He relies upon that which is natural to one standing on his party connexion—I was about to use an expression which would appear harsh, but I will refrain. He relies upon authority—on the authority of the Secretary of the Treasury; and he gravely tells us here in debate what he, Levi Woodbury, as he calls him, authorized him to state for the information of the Senate. I must be permitted to express my surprise, said Mr. C., that the Chair permitted the disorder of communicating thus unofficially, by a Senator in his place, the opinion of one of the Secretaries.

Mr. C. said, I have not even taken the trouble to ascertain what is the opinion of Mr. Woodbury; for I must say that his report, neither as to manner or matter, seemed to be entitled to any extraordinary respect. But what says this Secretary? At what does he estimate the income of the year? Why, sir, he estimates it almost at the precise sum estimated by the committee. It is true, he does not acknowledge a balance, or at least but a small one, at the end of the year; but why so? simply because he has raised the expenditure to the income, as great as it is, and because he has chosen to charge all the unapplied appropriations at the end of the year, which usually amount to several millions of dollars.

No one knows better than the Senator from Missouri the fallacy of bringing forward these unapplied appropriations—that they ran on from year to year without much variation; and he has again and again demanded the interpretation placed on the sinking fund act of 1816, on the ground that these unapplied appropriations were taken into the estimate contrary to the intent of the act, and which in its consequence kept a useless unexpended sum in the treasury of five or six millions of dollars, to the heavy loss of the community. He now chooses to forget his denunciations, and avails himself of the error which he formerly so severely condemned—an error which now represents the treasury as almost deficit, when the Senator well knows that, had a distribution been authorized at the end of the last year, six millions might have been safely distributed.

In his eagerness to show that the committee had over estimated the income, he had fixed upon the years 1841-'42, when, according to the compromise act, the heavy reduction in the duties are to take place. In reply, I have but a single remark to make. The Senator ought

to have known, as a member of the committee, that those years were not taken into the estimate. That the calculation of the committee terminated in the year 1841, when the biennial reduction of one-tenth ceased; till which year, it estimated that the average sum at the disposition of the Government, comprehending the bank stock and the present surplus in the treasury, would be nine millions of dollars. Not on the supposition, as he would have the Senate to believe, that the annual expenditure would be nearly twenty millions of dollars, as estimated by the Secretary, but that it would be reduced to less than thirteen millions.

The only question, then, that remains is, whether the estimate to what the expenditure ought to be reduced, rests on a substantial basis? For this purpose the committee selected the expenditure of 1823 as the basis of their calculation—the Senator from Missouri was then a member of this body, and I appeal to him (said Mr C.) to say whether he was not one of those who at that time pronounced the expenditure to be extravagant.

[Mr. BENTON said, yes; he was called a radical in that day.]

Well, then, said Mr. C., you cannot object to the basis on which I rest my calculation: to the expenditure of that year the committee added two per cent. annually, on account of the growth of the country; a sum as large as can be safely added, as they have abundantly demonstrated. They have gone further; they have added the full amount of the pensions, as estimated by the Secretary of War, and they find that, even upon this liberal basis, the expenditure ought not much to exceed twelve millions of dollars per annum, allowing for the decrease in the pension list, on account of deaths, to say nothing of the very great reduction which will probably be made on account of the almost innumerable frauds which are acknowledged to exist: take this sum from the income as estimated by the Secretary himself for the present year, and it will give the surplus estimated by the committee; and yet this plain substantial statement, confirmed by the authority on which the Senator himself relies, is pronounced by him to be wild--visionary--a hallucination!

But the committee has been accused of impeaching the conduct of the President, and calling in question his motives. The charge has as much foundation as the other assertions of the Senator. The committee has no where cast censure, or imputed improper motives; they have spoken of facts, and facts only, as they found them, and traced them to their natural consequences, without regard to any individual or any party. If there be any who feel, the fault is not ours. The committee has not acted upon party ground; they investigated the subject referred to them with impartiality, as citizens attached to the country, and having an interest in the preservation of its institutions. They deeply felt that the crisis is of a most alarming character—that the character of our Government is undergoing a great change, which in its consequences threatened disaster to the country, and that the only effectual mode of arresting the approach of revolution is by the application of timely and peaceful remedies, such as those which they have proposed.

It seems that the estimates are not to receive credit, because it had been last year anticipated, in the argument on the deposite question, that there would be a deficit, when there was a surplus. Mr. C. said that he had asked the Senator whether he intended the remark to be applied to him, and he must say that he had not received the answer which, according to the usual courtesy which prevails in the body, he had a right to expect. I throw back, said Mr. C., the assertion of the Senator: I made no false prediction; I anticipated no deficit. It is well known to those with whom I associated, that, at the time, I looked into the subject, and then stated that the estimate that there would be a deficit was erroneous, and so stated at the time. I then estimated the receipts from the customs at sixteen millions, and I only desire that my estimate as to the surplus revenue may be as correct as my estimate of the revenue of last year then was. I have little apprehension as to the customs. If there be error, it is as to the public lands. I have taken a sum less than the average of the last four years; much less in fact than it appears; for instead of taking the income of 1833 at three millions nine hundred thousand, I might well have taken it at five millions, the amount at which the land sold, although the return of the year is put down at $3,900,000, without giving any where, as far as I can see, a satisfactory explanation. But I am well aware that the great sales of this and the last year are to be attributed to the large tracts of fertile land brought into the market, and which may possibly have a greater effect on the revenue from this source than was estimated by the committee.

Mr. POINDEXTER then modified his motion, so as to make it 20,000.

Mr. LEIGH moved 10,000.

Mr. KING, of Georgia, moved 5,000.

Mr. KING, of Alabama, was willing to vote for 10,000 of each of the reports.

Mr. POINDEXTER accepted the amendment.

Mr. HILL asked for the yeas and nays; which were ordered.

The question was then taken on the motion to print 10,000, and decided as follows:

YEAS—Messrs. Benton, Bibb, Black, Brown, Buchanan, Calhoun, Cuthbert, Ewing, Goldsborough, Grundy, Hendricks, Kane, King of Alabama, Leigh, Linn, McKean, Mangum, Naudain, Poindexter, Porter, Robbins, Robinson, Silsbee, Smith, Southard, Tipton, Tomlinson, Tyler, White—29.

NAYS—Messrs. Hill, King of Georgia, Morris, Shepley, Tallmadge, Wright—6.

The Senate then adjourned.

TUESDAY, FEBRUARY 10.

GENERAL POST OFFICE BILL.

The bill to change the organization of the General Post Office was taken up on the question of its third reading.

Before the bill was read,

Mr. GRUNDY said he was instructed, by the unanimous vote of the committee, to move two amendments to the bill, which he hoped would be adopted by general consent. In the 13th section of the original bill there had been left a blank for the number of clerks to be hereafter employed in the General Post Office; in regard to the filling of which the committee had not been able previously to agree. There was also an allowance in the last line of the 3d section of a messenger at $800 a year. It had been the practice to allow the messengers in every other Department $700; and if this messenger was to receive $800, it would cost the Government a good many hundred dollars. He then moved to amend the last item by making the salary $700 instead of $800; and to fill the blank regarding the number of clerks with the following words: one clerk at $1,750; eight clerks at $1,400; eight clerks at $1,200; nine clerks at $1,000; and two messengers at $700.

The amendments were agreed to, and the bill was then read a third time and passed.

NAVY APPROPRIATIONS.

On motion of Mr. WEBSTER, the Senate then proceeded to consider the bill making appropriations for the navy for the year 1835.

The bill having been read, and being under consideration as in Committee of the Whole,

Mr. WEBSTER said that the committee had not instructed him to move any amendment to the bill. He had compared it with the bill of last year, and had found it to be correct. There had been an enlarged appropriation for the marine service, growing out of the new organization of the corps which was ordered at the last session. A new item of appropriation had also been introduced, for the purpose of establishing a lithographic press, for which, and its expenses for a year, $1,000 was appropriated. A press of this description, for the printing of charts and maps, had frequently been suggested, and it was thought expedient to authorize an experiment of its utility to be made.

The bill was then reported, without amendment, and ordered to a third reading.

On motion of Mr. WEBSTER, the bill was then read a third time and passed.

CUSTOM-HOUSE OFFICERS.

On motion of Mr. SILSBEE, the Senate postponed the previous orders, and proceeded to consider, as in Committee of the Whole, the bill fixing the number and salaries of the custom-house officers of the United States.

Mr. SILSBEE said that, after the discussion which took place towards the close of the last session, upon that part of the general appropriation bill which related to the pay of custom-house officers, a resolution, offered by him, was adopted by the Senate, calling upon the Secretary of the Treasury for information on that subject. Upon that, and other previous calls of a similar kind, the Secretary had laid before both Houses of Congress several extensive tabular statements, accompanied by a report and a bill of his own, which had been laid on the tables of members, and which, he presumed, had attracted their attention.

These papers, which had been reported by the Secretary, furnished not only the information which he had collected, but also the conclusions to which that information had led him. An examination of these papers, and a devotion of much time and attention to the subject to which they relate, had led the committee to conclusions, some of which were, and some were not, in accordance with those of the Secretary. We have, said Mr. S., more than one hundred collection districts, some of them having but a single port, in which a large revenue is collected, and a vast deal of business transacted; others, comprising several ports situated a number of miles from each other, in which, although there is less revenue collected, there is considerable tonnage owned, and much business done; and others, in which there may be but little either of revenue or of tonnage to attend to, but in which it is necessary to have a suitable number of officers to prevent evasions of the revenue laws. In so many districts, differing so much from each other as to the amount and kind of business transacted within their respective limits, it was a task of no small difficulty to assign a suitable number of officers to each; nor was it much less difficult, especially taking into view the difference in the expense of labor and of living in the different sections of our country, justly to apportion their respective rates of pay. The bill under consideration, Mr. S. said, had been reported with the approbation of the whole committee, and might be considered as their decision upon its various details, each and all of which had received their united attention and consideration. If inequalities were discovered in some of the provisions of the bill, he thought it might be confidently asserted that other and greater inequalities were corrected by it.

Mr. S. said that this bill proposed a reduction, both of the number of officers and of the aggregate amount of their pay, beyond that proposed by the Secretary of the Treasury. That, according to some of the tabular statements reported by the Secretary, and according to the Blue Book also, the number of officers employed in the collection of the revenue in 1833 (the last year for which we have been furnished with the returns) was 1,226, and the amount of their pay was $1,088,981. That the Secretary proposed to reduce the number of officers, on the 30th September next, to 1,125, and the aggregate of their pay to $918,831; making a reduction, according to the Blue Book, of 101 officers, and of $170,150 of their pay; that the Secretary, however, proposed a maximum, at his discretion, which might, according to Mr. S's estimation of it, carry the number of these officers up to about 2,900, and their pay to an amount which he (Mr. S.) had estimated to be somethimg over $2,000,000; but he did not think it probable that the Secretary had ever contemplated assigning to every one of the districts embraced in his sixth and seventh classes of them, the maximum of officers which he had assigned to those two classes.

The number of officers, according to the bill under consideration, Mr. S. said, would be nine hundred and twenty-three, and the aggregate of their pay could not much exceed, but might, and he thought would, (if the provisions of the bill were properly observed,) fall short of $778,500, making a reduction, according to the Blue Book, of three hundred and three officers, and of $310,481 of their pay, being a reduction of about one-fourth part of the present number of officers, and of more than a fourth, nearer one-third, of the present amount of their pay. That the number of officers provided for by this bill could not (without a violation of one of its provisions) be increased but by the authority of Congress; and that, with the exception of a provision which authorizes the Secretary of the Treasury to unite in one person the duties of more than one subordinate office, with an increase of pay not exceeding $200 for such additional duties, neither the specific nor aggregate of pay to these officers could be increased but by an act of Congress. That fixed salaries were, by this bill, attached to all the officers, with the exception of two classes of them, one of which two classes was the weighers and gaugers, and the other class was the temporary inspectors and measurers. The compensation of the weighers and gaugers, of which there were seventy-two in number, was to be continued as at present, until it reached a maximum varying, in different districts, from 1,400 down to $800, and amounting in all to $89,000. The compensation of the temporary inspectors and measurers, of whom there were three hundred and eleven, was to be, as at present, $3 per day while actually employed, not to exceed a maximum varying, in different districts, from 700 down to $200, and amounting in the aggregate to $165,500. And, Mr. S. said, it was believed by the committee that such services would not be required of all these two classes of officers as would entitle them to the maximum of their pay; consequently the aggregate of pay, according to the provisions of the bill, might, as he had previously stated, fall short of $778,500. By this bill, said Mr. S., naval officers are retained only in the six highest districts; deputy collectors are retained only in the fourteen highest districts; and deputy surveyors only in the four highest districts. Deputy naval officers are not otherwise provided for than by an authority to the naval officers of the six districts, as aforesaid, to appoint a clerk in their office, to act as deputy naval officer, without any increase of pay beyond that of the highest-rate clerk of such naval officer. In those districts where there is no deputy collector provided for, the collector is authorized to appoint a surveyor or inspector, to act temporarily as his deputy; and in districts where there are ports of entry or delivery other than that at which the collector's office is loca-

ted, and at which a surveyor or inspector may be stationed, the collector is authorized to appoint such surveyor or inspector a deputy collector; but such appointments are not to be accompanied by any additional pay. Surveyors are to possess all the powers of inspectors, and perform their duties, when required to do so. The office of measurer is abolished, and the duties of that office assigned to inspectors.

In framing this bill, Mr. S. said, a desire had been evinced by every member of the committee to retain, in each and every district, a number of officers sufficient not only to protect the revenue, but also to afford every reasonable facility to the community, and to assign to those officers an adequate compensation for their services; and if the committee had fallen short of this, he was confident that each and all of them would regret it. It afforded him no pleasure, Mr. S. said, to be instrumental in bereaving others, either of occupation or emolument, but that this was one of those cases in which private inclination should yield to a sense of public duty —a duty which compelled him to say that legislation on this subject ought not, in his judgment, to be longer delayed. That it was time to check the rapid, and, as he thought, uncalled-for increase of these officers, some classes of whom, in some of the districts, had more than doubled in number within the four last years. Some of the existing rates of pay, he thought, should also be changed, or limited in their aggregate amount, and be better known to the community than at present.

Mr. S. said that some of the tables containing these details differed so much from each other, that it was difficult, if not even impracticable, satisfactorily to ascertain either the number of officers employed, or the amount of their pay. That, according to the Blue Book, and according to the tables of the Secretary, which had been printed and laid on the tables of the members, the number of officers employed in 1833 was one thousand two hundred and twenty-six; but by a tabular statement from the Treasury Department, prepared in compliance with the resolution of the Senate of the 25th of June last, to which he had before alluded, the number of officers employed in 1833 was one thousand five hundred and ninety-five, instead of one thousand two hundred and twenty-six; nearly one-third more. And in relation to the compensation of many of these officers, these tables differed as widely from each other as they did in relation to the number of officers.

Here Mr. S. read from these tables the amount of the pay of a large number of the collectors, showing a difference, in several instances, of more than fifty per cent., and said that it was only in a small portion of the whole number of cases that a precise agreement was found in these different tables of the emoluments of these officers.

Some of the subordinate officers, Mr. S. said, had received a greater compensation than any of the higher ones, and that there were numerous instances of this kind, but he would notice but one of them, which was that, according to the Blue Book for 1833, the pay of thirty-seven weighers, gaugers, measurers, and markers, exceeded that of the thirty-seven highest paid collectors, by $32,548. That the same Blue Book developed some evasions of law, which should be corrected. The business of "marking," said Mr. S., is a part of the duty of weighers and gaugers, and provided for in the compensation allowed to them; yet in three of the districts $22,694 had been paid to officers denominated "markers," for performing that duty; and another sum of $18,373 had been paid in two of the districts to thirty-four persons denominated "night watch," making in these two instances $41,066 paid to two classes of officers not recognised by any existing law.

The pay of surveyors in the highest districts was limited, Mr. S. said, to $2,500, yet in two of those districts the surveyors had received $2,900 each. The pay of deputy collectors was limited, in other than the highest districts, to $1,000, yet in two of them the deputy collectors had received over $1,000 each. An inspector, in the higher districts, was forbidden to hold any other office, yet in two of those districts an inspector had acted also as deputy, or assistant surveyor, and received each about $1,500. And he (Mr. S.) had been informed that the seventeenth section of the act of May, 1822, was daily and hourly violated in some of the districts.

After supplying some omissions in the bill, Mr. S. said, he submitted it to the Senate, with a hope that it might meet their approbation.

Mr. S. briefly explained the object of the bill, which was to fix the number and compensation of the custom-house officers in the United States, and to prevent an inequality which existed in the compensation of the subordinate officers of the same grade, in different parts of the country.

Mr. S. then moved, severally, the following amendments to the bill:

The appointment of a surveyor at Jersey City, in the district of New York, at a salary of $800 per annum.

A surveyor at Lynn, in the district of Marblehead, at $300 per annum.

A surveyor at Ocracock, in the Newbern district, at $700 per annum.

A surveyor at Camden, New Jersey, at $250 per annum.

A surveyor at St. Mary's, in the Annapolis district, at $200 per annum.

These amendments were agreed to.

Mr. SILSBEE then moved a further amendment, "that all fees now payable by law to all collectors, naval officers, and surveyors, or their deputies, or those authorized to receive them, shall be regularly accounted for quarterly, and paid into the treasury by the officers receiving the same;" which was agreed to.

Mr. SWIFT offered an amendment, requiring temporary officers, who received a *per diem* compensation, to make a report of the duties performed by them, with a statement under oath that their duties were necessary to the public good.

After some conversation between Mr. SHEPLEY, Mr. SILSBEE, and Mr. SWIFT, the proposed amendment was withdrawn by Mr. SWIFT, on the suggestion that the substance of it was already contained in the bill.

Mr. TYLER said he found by this bill that out of the fourteen naval officers now established, only six were to be retained. That the port of Norfolk was to be deprived of this officer. He contended that these officers were necessary, as checks over the collectors. He therefore proposed so to amend the bill as to give a naval officer, with a salary of $1,000, to the port of Norfolk. Mr. T. then read a letter from the Comptroller of the Treasury, stating, as his opinion, that a naval officer ought not to be dispensed with at the port of Norfolk.

Mr. SILSBEE said he was willing, so far as respected himself, to have dispensed with all the naval officers; but, in accordance with the opinion of the committee, they had retained six for the six principal ports of the country.

Mr. WRIGHT thought these officers were necessary at the large ports, and a majority of the committee thought they could be dispensed with at six or seven ports. Where the receipts were very heavy, he operated as a check on the collector, by reviewing and correcting his accounts. The amendment went to extend this officer to another class of ports not in the contemplation of the committee.

Mr. SILSBEE was opposed to the amendment, be-

cause, if it prevailed, this officer must be extended to other ports where there was really no necessity for it.

Mr. TOMLINSON said he thought, in the committee, that it was necessary to abolish all these naval officers. They were merely checks on the collector, and he was already checked by his clerks and the surveyor of the port; and he was also checked at the Treasury, by the accounting officers. The committee thought it expedient, by way of experiment, to reduce the number of naval officers in the small ports first, and if it succeeded there, it was thought that it would afterwards be very easy to extend it, and abolish the office in the other ports. He saw no strong reason, therefore, for establishing one at Norfolk.

Mr. TYLER said he went for checks and balances. If the appointment of a naval officer was necessary as a check upon the collector in six or seven ports, it was so in all. If we could dispense with sentinels over the collector where not more than ten thousand dollars were received, we could where ten millions were collected. He saw no force in the remark that the clerks were a check upon the collector, under whose control they were, and removable at his pleasure; nor could he understand how the officers of the Treasury were a check upon the collector. He was unable to conceive what check there was upon that officer, except what was afforded by the naval officer. With respect to the collector at Norfolk, he knew him to be a most honest, trust-worthy man, and believed him to be as much so as any other in the Government; but he would trust no man to go into the treasury and take money out of it, without having a sentinel to watch over him.

Mr. SILSBEE and Mr. TOMLINSON made some further remarks, when the amendment was disagreed to.

Mr. BIBB then moved a further amendment, to increase the salary of the collector at Sandusky from $400 to $600 per annum.

Mr. B. knew this officer to be a most honest and excellent one. He had been many years in the service of the Government, but his salary was entirely too low to enable him to live. There was a maxim, "Make money—honestly, if you can—but at all events make money." This maxim applied with increased force to persons thus situated; they must live—honestly, if they could—but the means of living must be had at every hazard. He thought that $600 was a very moderate salary, and hoped the proposition would be agreed to.

Mr. BUCHANAN said he would vote for the amendment. But, while he was up, he would make one or two general observations with regard to this bill. It must be admitted that there was no Government on the globe that had collected its revenue with more punctuality or more faithfully than the Government of the United States. To collect it successfully required the exercise of great care, and the possession of great practical knowledge ourselves, or the advantage of it in others. The objection to the bill was not that the higher officers intrusted with the duty of collecting the revenue were not sufficiently provided for; but when we went from the ports on the seaboard to those in the interior, he entertained doubts on the subject. We all knew what corruption existed in the European Governments among the collectors of their revenues; and the reason was, that they did not receive a sufficient compensation for their services to live on. They must live; and, in order to live, they became corrupt. Although he was as anxious for an economical administration of the Government, and economical expenditures, as any gentleman of the Senate, yet he would be sorry to introduce the spirit of economy to such an extreme as would induce the collectors of the revenue to become dishonest. As the honorable gentleman from Kentucky [Mr. BIBB] well remarked, they must live; and if they could not live honestly, they must derive the means of living from some source. He did not know that there were any provisions in this bill which would have the effect of making all officers dishonest. But he felt certain that, at the port of Sandusky, a competent officer could not be obtained for $400; or if he could be obtained, he could not live on that salary. At some other time, it was probable, he might move to postpone this bill for the present session. He believed it was not to take effect till next January, and at the next session we should all come better prepared to legislate upon a measure which would have so important a bearing upon the collection of the revenue of the country. Mr. B. said no man valued the practical knowledge of the honorable gentleman from Massachusetts, [Mr. SILSBEE,] or appreciated it more highly than he did; but he hoped the bill would be postponed, although he would not make a motion to that effect unless he thought it would receive the sanction of a considerable portion of this body.

Mr. SILSBEE said the Secretary of the Treasury had given him his opinion as to what these collectors ought to have, and he supposed he had founded his estimates upon what he believed to be just and reasonable. Mr. S. said he would be the last man to give less compensation than these officers ought to have, or what was necessary to support them. If the man had lived heretofore on $400, why might he not continue to do so?

Mr. BUCHANAN would only say that he would take the opinion of the honorable gentleman from Massachusetts, respecting the sufficiency of the salary of this collector, with as little hesitation as that of the Secretary of the Treasury. But if this honest man, as he has been represented to be, had lived for so many years upon a salary of $400, he thought it now time to give him $600.

Mr. BIBB observed that this gentleman held this situation under the expectation of a higher salary. He (Mr. B.) was not in favor of high salaries, but $400 would not procure the services of a competent man at a place which was so convenient for smuggling as Sandusky. Unless there was a man there who was competent to his duties, the revenue would suffer; and $400 was not such a compensation as the Government ought to offer such a person.

Mr. WRIGHT conceded the general proposition of the gentleman from Pennsylvania, that it was the interest of the Government fully to compensate its officers. This was the wish and design of the committee in framing the bill; but they might have failed in it; and, if they had, he was willing, and indeed desired, that the Senate and the House should correct it, in acting on the bill. But with regard to the compensation of collectors, he believed, as a general principle, it was based upon the amount of revenue which was received at a particular port. [Mr. W. here referred to the Secretary's report, to show that, in 1833, the revenue received at Sandusky was $102.] The amount paid for doing this business was $409. He was not acquainted with this district; but he believed that the facility for smuggling there was much diminished, owing to the situation being upon the lake, with perhaps an expanse of fifty miles of water to be crossed before smuggled goods could be introduced. If this salary should be raised, he thought all the other salaries of the same grade ought also to be raised.

Some further remarks were made by Messrs. BIBB, WRIGHT, and SILSBEE, when Mr. EWING interposed a motion to adjourn, which prevailed,

And the Senate adjourned.

WEDNESDAY, FEBRUARY 11.

OHIO ABOLITION MEMORIALS.

Mr. EWING rose and addressed the chair as follows:

Mr. President, I hold in my hand, and am instructed

to present to the Senate, memorials of sundry citizens of the State of Ohio, praying for the abolition of slavery in the District of Columbia. It is but justice to say of these memorials that they are dictated by a spirit of pure philanthropy and Christian piety, and that they are entitled to the most respectful consideration of the Senate. I shall move their reference to the Committee on the District of Columbia; and I hope that committee will not be satisfied with merely passing them over in silence, but that they will give the Senate and the nation their views upon the subject; that if any obstacles stand in the way of the measure solicited by the memorialists, they may be made known, and, being known, their true merits can be appreciated. No one is better qualified than the honorable chairman of that committee to examine and elucidate this subject, and I have no doubt he will do it in the spirit of candor and justice, and respect for the opinions of every portion of our country, becoming an American statesman; and I move the reference.

The memorials were then referred to the Committee on the District of Columbia.

PENSION AGENCY IN NORTH ALABAMA.

Mr. TOMLINSON, from the Committee on Pensions, to which had been referred the resolution of the Senate directing them to inquire into the expediency of establishing a pension agency in North Alabama, reported that it was inexpedient at this time to legislate on the subject, there being already two pension agencies in the State.

Mr. KING, of Alabama, asked the honorable Senator to explain why the committee asked to be discharged from the further consideration of the memorial. It seemed to him that such an agency was much wanted, and it would be a great convenience to several old and decrepid pensioners to have an agent near at hand. The money for the payment of these pensions was placed in the bank of the State, which was a deposite bank of the Government, and therefore the agency could be established without inconvenience. He hoped the committee might not be discharged from the further consideration of the memorial.

Mr. TOMLINSON wished to afford every reasonable accommodation to the invalid pensioners in the State of Alabama; but the Senator forgot that there had been a pension agency established there lately.

Mr. KING observed that that agency was confined to a certain district.

After some further observations from Mr. TOMLINSON,

Mr. KING moved that it be laid on the table, for the purpose of being taken up again when he should have obtained certain information from the Secretary of the Treasury relative to the subject.

CUMBERLAND ROAD.

On motion of Mr. HENDRICKS, the Senate proceeded to consider the bill for the continuation and repair of the Cumberland road, in the States of Ohio, Indiana, and Missouri.

The bill having been read, Mr. HENDRICKS moved to amend the first section by adding a provision that the officer of the army to whom the charge of the disbursements was given, should receive a per centage above his regular pay.

This proposition was opposed by Mr. CLAY and Mr. HILL.

Mr. HENDRICKS then said that he was very indifferent as to this proposition. He made some explanations on the subject of the bill, generally, giving a statement of the appropriation made last year, and of the manner in which that sum ($300,000) had been expended. The bill of last year, as it passed the Senate, appropriated $652,000, and it was then stated that, if the whole amount was appropriated, there would be no further application to Congress. But the House of Representatives reduced the appropriation to $300,000, and the present bill appropriated $340,000, being rather less than the estimate of last year. The passage of the bill, in this form, would be sufficient to put the road in that state of repair which would render it unnecessary for any future appropriation by Congress.

Mr. BUCHANAN said that reasons both of a public and personal character would induce him to make some remarks on this bill. The Cumberland road had been a constant subject before Congress, ever since he had first taken his seat in the House of Representatives, in the session of 1821-'2. A bill had passed at that session to keep it in repair, by erecting toll-gates upon it, under the authority of the general Government, on which Mr. Monroe, then the President of the United States, had placed his veto, because, in his opinion, Congress did not possess the power, under the constitution, to enact such a law. He (Mr. B.) had then carefully examined the message of Mr. Monroe on returning this bill, and had been convinced that we had no power to pass any such act. From that moment he had steadily and uniformly, in every shape and form, opposed the erection of toll-gates upon this road, under the authority of the general Government. If Congress do possess the power to enter the territory of a State, to interfere in their domestic concerns, to erect toll-gates upon their roads, to establish a system of police over them, and inflict penalties for its violations, and of consequence to create tribunals before which these offences may be tried, then every barrier between federal and State authority is at once prostrated. Indeed, this principle would lead to perfect consolidation, so far as an entire jurisdiction over the post roads of the country, for the purpose of levying tolls to keep them in repair, could extend.

In this state of things, there was one party in Congress who, although anxious for the preservation of the road, felt themselves bound to vote against all appropriations for its repair, on the principle of thus compelling its friends to consent that tolls for this purpose should be levied under the authority of the States through which it passes. Another party desired that it might be for ever kept in repair by appropriations from the national treasury, without the collection of tolls either under State or national authority. And a third class of politicians were determined to push the doctrine of internal improvements to the dangerous extent of establishing the principle that Congress not only possessed the power to appropriate money for the construction of roads and canals, but that they were also bound to assume a jurisdiction over them, by erecting gates upon them, and demanding toll from the passengers.

In regard to myself, said Mr. B., I have been more misrepresented upon this question than I have ever been on any other. I have been constantly denounced as an enemy to the road, although I have never entertained a single hostile feeling towards it. Jealousy towards this great national work, because it might injure the Pennsylvania turnpike, has always been imputed to me, when, if I know myself, I am incapable of such a feeling towards such an improvement, so beneficial to the citizens of the country generally. For several years I voted for appropriations to repair the road, and I did not cease to do so until I discovered that, if this course were continued, the peculiar friends of the road never would consent to the erection of toll-gates under State authority.

In this conflict of jarring opinions, the necessary appropriations could not be obtained for the repairs of the road. It got into a ruinous state, and became so dilapi-

dated that its entire destruction was threatened. Its friends at length consented that it should be placed under the protection of the States through which it passes. To carry their wishes into effect, Pennsylvania, in April, 1831, and Maryland, in January, 1832, passed acts authorizing the erection of toll-gates upon it, and agreed to take it under their care, provided, it "should be put in a good and complete state of repair" by Congress. Virginia, some time afterwards, passed a similar act.

On the 3d July, 1832, Congress approved of these legislative acts, and appropriated $150,000 towards the repair of the road.

Here, then, was a contract expressly and solemnly made, first, that the road should be put in good and complete repair by Congress, and then that it should be surrendered to the States for the purpose of its preservation. In pursuance of this arrangement the Engineer department adopted a plan for its repair. The road was to be Macadamized. There were to be three strata of stone placed upon it, each of three inches in depth. The repairs proceeded upon this principle. On the 2d March, 1833, the sum of $125,000 more was appropriated to continue these repairs. At the last session an estimate was presented to Congress by the Engineer department, stating that the sum of $652,100 would be required to complete the road; but Congress only appropriated $300,000 for this purpose, less than half the necessary sum. The act granting this money also declared that it was given for the "entire completion of the repairs of the Cumberland road east of the Ohio."

What have been the consequences? Just such as might have been foreseen by every reflecting man. The Engineer department has adopted a fixed plan for repairing the road. This plan they had steadily pursued for two years. It was known or ought to have been known by Congress. They were progressing gradually to complete the road, when, all of a sudden, without any previous notice, Congress changed the plan, by granting less than half the money necessary for its execution. What was then to be done? It became necessary for the engineer to abandon his system, and spread the appropriation over the whole road. He has acted thus; and the result has been, that about sixty-three miles of the road, nearly half its whole length, has but one stratum of three inches of stone in depth, instead of three. Is there any gentleman upon this floor who does not know not only that this is insufficient for a permanent road, but that as soon as the spring opens it will be cut to pieces by the heavy wagons and carriages? The metal, as it is technically called, will then be all in the mud. If the money now asked be not granted, the fatality which has always attended this road will continue to exist, and the last appropriation of $300,000 will be rendered nearly useless.

But, sir, the States through which the road passes have only agreed to take it off your hands, on the condition that you shall first put it in good and complete repair, and you have accepted these terms. Does any gentleman suppose for a single moment that the State of Pennsylvania will accept this road in its present condition? Is it in good and complete repair, according to the terms of the contract? Your own engineer answers no, and informs you that it will require the sum of $346,186 58 to complete the repairs, according to the plan adopted, and which is considered indispensable. This sum you will be obliged to grant, or you must keep the road in repair by annual appropriations—a course of policy which I presume no Senator intends to adopt as a permanent system. There is no other alternative, unless you devote the road itself to destruction. This idea no gentleman can for a moment entertain. Toll-gates to be erected by Congress are now out of the question.

But it is said that the sum of $300,000 was appropriated at the last session for the entire completion of the repairs of the road, and that no more ought now to be demanded. Is there any force in this argument? In adjusting an account with individuals, where the claimant is an opposing party, it is very proper for Congress to declare that the sum granted shall be in full of all demands. Unless under very extraordinary circumstances, I should not vote to reopen such an account, and grant an additional sum. But what are the facts upon the present occasion? Does not this road belong to the United States? Are we not bound by the strongest sense of public duty to keep it in repair? Here there is no opposite party with whom we can drive a bargain. It is our own road, and if we have not appropriated a sufficient sum for its repair, shall we suffer it to go to ruin because we have made a mistake in regard to the amount necessary for that purpose? If the simple declaration of Congress that $300,000 was sufficient could have rendered it so, then there might be justice in the reasoning; otherwise it is a mere fallacy. After having granted a certain sum, which was found by experience to be wholly insufficient to complete one of our fortifications, what should we say to a gentleman who would gravely contend that, as we had declared this sum should accomplish the object, we would rather permit it to go to ruin than appropriate another dollar? The cases are precisely parallel. But this is not all. How can Congress acquit themselves from their obligations to Maryland, Pennsylvania, and Virginia, by such an argument? They have a right to declare that this was not the bargain; that you agreed to repair the road; and, cost what it may, this object must be accomplished, or they will not accept its surrender.

The commissioners appointed under the act of the Legislature of Pennsylvania have pledged themselves to us in the most solemn manner to accept the road, and erect toll-gates upon it, as soon as Congress shall appropriate the sum deemed necessary by the Engineer department to place it in a state of good repair. That sum is granted by this bill. Pass it, and I will undertake to say for Pennsylvania that this perplexing question, which has so often and for so many years agitated Congress, will be for ever at rest. You will never more hear of this road, unless it be that it has been protected and preserved with the fostering care which that State exercises over all interests in which the welfare of her own citizens or those of the United States is concerned.

Mr. PRESTON said he recognised in this bill an old acquaintance. No less than three appropriations had already been made for the repair and completion of the road in question, and now a fourth was asked; Congress not yet being one jot the nearer, than at any former period, of getting rid of the road. At the last session, the Senate, for the purpose of purchasing its own peace and quiet, of ridding itself of the matter, made an appropriation of $652,000. The bill being then sent to the House, it made a different estimate from what had been made in the Senate, supposing that the road could be finished, on the plan proposed, for $300,000. That sum was accordingly appropriated. Thus, the measure having passed both branches of the Legislature in that form, it was undoubtedly deemed sufficient to carry the project into effect; and the Senate, at least, was under the impression that that was the last occasion on which they would be called upon to make an appropriation. Yet, notwithstanding, here was another demand for an equal sum to that which was granted last year. There was a time, according to what had been said by the Senator from Pennsylvania, when some hopes might have been entertained that an end would have been put to further legislation in regard to this road. There was a period when Congress proposed,

as was intimated by the honorable Senator, to erect toll-gates on this great road, for it was contended then that they had the constitutional power to do so. He (Mr. P.) believed, though he could not speak for the honorable Senator, that those gentlemen who at that time were in Congress, and who were now bright and shining lights, believed very differently, though they had voted for that measure: they thought them unconstitutional. Gentlemen now could hardly be brought to entertain such a notion. Your real Simon Pures of the republican democratic old school believed that Congress had no such power. If Congress possessed the right to establish internal improvements, it had also the power to take out of the treasury funds for the purpose of carrying them into effect. It must give the improvements to the States, in the end, for it could not keep them. For himself, he avowed he should feel most happy if they could give this road away, and so get rid of it. But, unfortunately, they found themselves in the situation of the man to whom the Senator from Tennessee the other day had alluded, who took a quantity of coon skins to market, but could not sell them. He then tried to give them away, and not succeeding, he then endeavored to lose them by dropping them as he despondingly sauntered along the road; but, as ill luck would have it, some kind man saw them lying on the ground, and immediately called out to him; so that in fact he could neither sell, give away, nor lose them. And this was pretty much the case with the Senate in regard to this road. They were now, however, about to make an appropriation in order to shake it off their hands.

What was the situation in which Congress stood? Why, it had been compelled to pass appropriations amounting to the enormous sum of $700,000 within a few years past, for the purpose of buying its riddance of the burden, and, after all, an additional sum was now demanded at their hands. He would be glad to know under what guarantee Pennsylvania would accept the road; whether on their voting an appropriation of $350,000? Had the officers acting under the orders of Government, and who were to see this road put in a state of repair, decided or given any opinion as to the actual state of the road? Not the party appropriating the money, not the party under whose superintendence the money was invested in the road; they had no right to decide on it; but the parties who were now to receive the road when perfected, or in such a state that they would take it. They cared nought about the quantity of money that might be expended in their own jurisdiction! No, not they.

Now, he should like to know whether these enlightened States, who were parties to the transaction, and who must feel some interest on account of the money that was now expended among them, did not desire to have as much money as possible in circulation? Most unquestionably they did. The honorable Senator next adverted to the acts of the commissioners on the part of the Government, who some time ago had been appointed to examine the road, and stated that dissatisfaction was expressed by the parties interested in it, because those officers did not choose to incur what they deemed unnecessary expenses in the orders which they gave for the proper repair of the same. They had recommended wooden bridges to be erected, and fault was found because stone was not preferred, (thus incurring a very great additional expense.) He (Mr. P.) could have sincerely wished that, instead of asking for the appropriation which was then made, they had come boldly forward and requested a larger sum; for he would have then proposed to give them $350,000, and have said, "here, take this money and the road off our hands."

At present, Congress were left entirely in the dark. It was desirable to get rid of it in some way or other. They were placed in an inexplicable difficulty; for, turn which way they would, the objections were almost insuperable. Millions had been expended on that road, and it was not to the interest of these States that they should go on and appropriate money, year after year, as had heretofore been done.

Mr. P., in conclusion, observed that he wished the honorable gentleman [Mr. EWING] to say, on his responsibility as a Senator, that that should be last time he would advocate any appropriation on account of the Cumberland road.

Mr. EWING rose and said that the Senator from South Carolina seemed to have forgotten the origin of the appropriation, and had overlooked what was in justice due to one of the States of the Union. It must be recollected, that when Ohio was admitted into the Union, and her constitution was formed, there was inserted in it a clause appropriating two per cent. of the produce of the sales of the public lands within her limits, for the making of roads leading to the State; and Ohio, in consideration of this provision, agreed not to tax the lands belonging to the United States for five years. Was that contract fulfilled by expending money on a road, without either maintaining it, or putting it in such condition as would enable the State of Ohio to maintain it? By making a road which was almost impassable, the promise of the United States was kept to the ear, but broken to the hope. That was the state of things at this time, and the reason for asking the appropriation was this: The State of Ohio was originally separated from the Eastern States by roads which were almost impassable. The transportation of goods over the mountains by wagons was exceedingly expensive. The roads were almost impassable, and it became necessary for the Western States to adopt some means of passing the mountains. The States of Virginia, Maryland, and Pennsylvania, being sufferers in a less degree, were less interested in this provision of means. At the time when the compact was made by the United States with the State of Ohio, it had become absolutely necessary, for the purpose of securing an intercourse with the States on this side the mountains. The first step to effect this was taken by an administration which had never been charged by any one with a disposition to violate the rights of the States. It was taken in 1802, when Mr. Jefferson was the President. What, then, was due to the State which formed the compact with the United States? It was due not only that the road should be constructed, but that, by the power of Congress, it should be maintained, guarded, and kept in sufficient repair: otherwise all the expenditures which had been made in the construction of the road would be a mere waste of money. The State of Ohio could not maintain this road; and, unless it was maintained by Congress, it would become of no value, and the compact would not be complied with. The road would be dilapidated and destroyed, as well by the people of the other States of the Union as by the State of Ohio, as there was great travel upon it by people from all parts of the Union.

This national road had been made under such circumstances, and had proceeded under the circumstances he had named. The gentleman from South Carolina said that there had been much money expended upon it. Well, and so there had been. It was not to be supposed that a road over the mountains could be kept up without expense. Was it expected that the people of the country through which it passed should maintain it? If it was a thickly peopled country, thriving in commercial pursuits, and cultivating a rich soil, it might be so. It contained merely a gore of the States of Pennsylvania

and Maryland. But neither of the States should be required to maintain this road themselves. It should be kept up in another manner. It ought to be maintained by tolls in the States where they are to be required to keep it up. The States were willing to take the road when it was in a state of repair, and it was right that the United States should put it in that perfect state of repair. The States would not be willing to take it, after it had been dilapidated and destroyed by the travel of the citizens from every quarter. It must be a road. It had been said that the States might cavil about different parts of the road, and might not be in favor of the road running to other States.

A great part of this road had been given to and accepted by the State of Ohio; and so far from laying heavy tolls, she had expended annually a considerable amount to keep down the tolls. The road was a favorite with the people of that State. Last year, according to an account of the auditor of the State, there had been an expenditure of $20,000 on the road. It could not be doubted, then, that the State of Ohio would keep the road in repair, if she accepted the surrender of it.

In reference to the estimate made for the repair of the road, the gentleman from South Carolina [Mr. PRESTON] would recollect that the estimate, and the sum asked for the last year, was $650,000. The advocates of the road had then said that this sum would be sufficient, and that they should ask no more if that sum were given. The question now stood precisely in the same light. If the money were appropriated and expended on the road, every assurance had been given that the road would be taken by the States, and that Congress would be called on no further. Such assurance had been given in every form, and he should think it his duty to rise, day after day, and assert the rights of the State of Ohio, until the road should be made perfect, and the State should have accepted its surrender.

Mr. BUCHANAN said that he had but a few words to say. He did not know to whom the gentleman from South Carolina [Mr. PRESTON] alluded in the first part of his remarks; certainly it could not be to him, (Mr. B.) Whether the Senator had, since the year 1821, seen any new lights himself, he did not know. But for himself, since the session of 1822-'3, he (Mr. B.) had been uniformly consistent, in season, and almost out of season, in endeavoring to destroy, and, so far as his humble influence went, to explode for ever the dangerous doctrine in regard to the establishment of toll-gates throughout the Union, under the authority of Congress.

[Here Mr. PRESTON made a remark in an under tone, the purport of which did not reach the reporter.]

Mr. B. continued. He had, with others, opposed appropriations for the repair of this very road, in order that the friends of it might be compelled to go to the States for the purpose of having toll-gates erected under their authority.

But he did not think the honorable Senator had read the documents with his accustomed care. What was asked now? He put it to that gentleman whether the State of South Carolina, occupying the high station she had always done, and which he trusted Pennsylvania always had done, and ever would do, whether, under similar circumstances, she would take the road under her charge, and undertake for ever to keep it in repair, when it was now in such a condition that it must go to ruin in the course of a year, unless an appropriation were made. That was the opinion of all the engineers on the subject. The fact was, and if the gentleman had examined the documents he would have discovered it, that on more than sixty miles of the road there were but three inches of metal in depth. Now, it did not require much sagacity to perceive that, upon the opening of the spring, when heavy wagons and other vehicles passed over this part of the road, they must get into the mud; and the stones and other ingredients of which it was composed must become so mixed up together as to render it almost impassable. In less than six months this would be the case, should no appropriation be made at this session to complete the repairs. But Pennsylvania had relied on the estimate of the Engineer department; she did so still. And could she be asked to take the road, when the officers of this Government had declared that it was not in repair, and could not be put in repair without an additional appropriation? Would the gentleman ask Pennsylvania to do so? Did he not always do unto others as he would wish to be done by? Would he ask her to incur an obligation of that kind, when she could not discharge the duties arising out of the obligation? Why, six hundred and odd thousand dollars were asked for at the last session. If that sum had been granted then, the Senate would never more have heard of the road. The mere balance of the sum contained in the bill that had passed the Senate at the last session, and which was reduced by the House of Representatives to $300,000, was all that was now asked for. And, so far as he could give the gentleman a pledge, in his place on that floor, he would promise that the sum which the engineers had demanded as necessary to put the road in repair, if granted, should be the last he would ever ask for, being determined never to vote again for another dollar on that account.

[Here Mr. B. read an extract from the memorial of the commissioners appointed under an act of the Legislature of Pennsylvania to accept a surrender of the Cumberland road, and erect toll-gates upon it, in which they pledge themselves that so soon as Congress shall make the appropriation for the completion of the road, (not after the appropriation shall be expended, said Mr. B.,) according to the estimate of the Department, toll-gates shall be erected without delay.]

Mr. B. resumed. That road would be accepted immediately on the passage of this act, because it provided for the sum estimated by the department, and the commissioners deemed it sufficient, and were willing to act on that belief. Supposing the gentleman had given his agent $1,000, to repair his house, and it was afterwards found insufficient, and that unless more money were expended on the building, it must fall into ruins, would he be willing to suffer the loss, rather than lay out more money in repairs? And that was precisely the case here. Well, then, they must repair the road now, or let it go to ruin, which he supposed no one contemplated, or they must be prepared to grant more money at the next session.

Mr. PRESTON rose to say a single word. It had been said that, because Congress had considered it a duty to make this road, there was an obligation involved to keep it up; and gentlemen thought they had a right to stand up in open daylight and assert that the general Government owed the duty to the States to maintain the road which they had thought it right to make. It appeared as if all the rules of private life were to be reversed in the affairs of Government. He was astounded at the course which gentlemen seemed disposed to take. Because we had expended seven or eight millions on this road, were we therefore bound to keep it up? If we made a present of this road to the States, were we to be still bound to keep it in repair? If you gave a horse to the State of Ohio, was it due to your reputation that you must feed him, and saddle and bridle him for the use of the State? As he understood the matter, the contract made with the States was to make the road, not to keep it up. The gentleman from Pennsylvania, in illustrating his own views, had put the question—if I employ an

agent to build a house, and, after he has expended the amount I allowed him, the house should be falling down, would I not advance more money to preserve it? The case was not parallel. This road was not our road. It was the road of Pennsylvania. It was not that we enjoyed any benefit from the road, but Pennsylvania. We had authorized the State of Pennsylvania to collect tolls on the road for the purpose of keeping it up, and had thus put into her hands the means for keeping it up. Gentlemen were therefore mistaken in supposing that Congress had imposed burdens on the States without giving them the means to sustain them. Because the people of all the States travelled on this road, it was not rendered incumbent on the United States to keep it up. If there was such an amount of travel as had been described, the toll-gates were erected for the purpose of keeping up the intercourse through a region of country where mountains had been levelled, and villages had sprung up in the wilderness. The road was now in a situation to be travelled, and the toll-gates exacted a tax from the traveller. If the travel was sufficient, instead of being called on to expend money on the road, the States might derive profit from it. And in parts where there was less travel, the States had exhibited a willingness to make the necessary expenditures, until the travel shall be sufficient. Yet gentlemen had said this road was to be a burden on the States in perpetuity. He had no desire to impute to the Senator from Pennsylvania that he had entertained at any time different opinions concerning this road from those which he had now expressed. He believed that Government had no right to make appropriations for the purpose of keeping up this road. But there were gentlemen with whom the Senator from Pennsylvania acted, who entertained different views from that Senator, as to the right of the Government to collect tolls. He did not mean to impugn the power of the States to establish gates for that purpose, under the authority of the general Government.

He was aware that the road would go to ruin without repair, not so much from the travel upon it, as from the accidents to which it was liable. The slight expenditure which the States would be required to make upon it would be amply compensated. The road must be repaired, and whether the mode proposed was advantageous or disadvantageous, the great advantages derived from it by the States should induce them to undertake it. This eternal recurrence of claims on the general Government seemed to him to show that gentlemen having once tasted of the sweets of Treasury patronage could not be driven from the feast; and that they had determined to come, year after year, until they had exhausted the patience of the general Government. As to the road west of Ohio, it should not go on with his acquiescence. He was desirous to move to amend the bill, by striking out the second and third sections, in order to test the feelings of the Senate.

Mr. WEBSTER said that no doubt it was formerly considered the policy of Congress to erect toll-gates, and he should probably have followed the Senator from South Carolina in his train of reasoning, and even to the result to which he had come, did he not feel himself restrained by constitutional scruples not to acquiesce in his argument. But entertaining, originally, no doubt upon the subject, he (Mr. W.) took a somewhat different view of the whole matter as presented by the honorable Senator. He thought it more general and local in its character than the gentleman from South Carolina seemed to think it was. They all knew that, originally, the ground assumed as rendering it proper for Congress to construct this road was, that the new States should be benefited by it, the Government of the United States being possessed of such vast public domain. The object, then, of this road was to open access to those States, in order that the public lands might be brought into market. He (Mr. W.) did not consider it a road in which Pennsylvania, Maryland, or Virginia, had a particular interest. There was no reason to suppose that if Pennsylvania were to make a road through her territory for two hundred or three hundred miles, she would fix upon that route in particular. The same remark will apply to Maryland and Virginia. The object was more general—it was a national object. Well, whatever the object was, it was a great public work which had been prosecuted for many years; and he agreed that, either through misfortune of mismanagement, or some other cause, it had been a most extraordinarily expensive undertaking. But still, in the actual position of things, he confessed he saw no better mode of legislation for Congress to adopt than to follow up the course indicated in the bill of last year.

He understood that the present bill had assumed two distinct objects. The one was to make a road beyond the Ohio river, to lead to the Mississippi, or indefinitely west. That purpose in the present bill did not seem to him to be exactly appropriate. The other object, and that the main one, was to appropriate $350,000 for the repair of that part of the road which lay on this side of the Ohio; and the object of that repair was said to be to place the road in such a condition as that the public authorities of those States interested in it would accept the same as belonging to themselves, and come under the contract to keep it in repair. Now, he supposed that every body who agreed or disagreed in respect to the original policy of the Government in making that road would admit, although it had been constructed at a great expense, that it was prudent and proper that the Government should be charged with the duty of preserving the road. He agreed with the policy adopted by Congress, and also with the sentiments expressed by the Senator from Pennsylvania near him, [Mr. BUCHANAN,] in that respect, and especially in this, that it was the true course for Congress to pursue to put the road in the most complete repair, and then transfer it to the respective States in which it lies. Arrangements had been entered into between the Government and the States, respectively. What were they? They were, that if the Government of the United States would put the road in repair, the States would take it and stipulate to keep it in that condition, and that was for the use of all the citizens of the United States. And he understood it as a part of the stipulation between the Government and the States, (the gentleman would correct him if he was wrong,) that they should expend every cent that might be received at the various toll-gates upon it.

Now, that road was no gift to those States in particular; they derived no more benefit than if he (Mr. W.) travelled west, and his friend from Pennsylvania [Mr. BUCHANAN] travelled east. They undertook to collect the revenue of the road, and to apply it to the purpose of repairing it. Every one must see how very inconvenient it was for Congress to possess such a road. He understood that there had been the most wasteful extravagance, in consequence of having suffered the road to be, from year to year, out of repair. If, however, it had been in the possession of the local authorities of the respective States, they would have been enabled, at a small expense, to have kept the road in repair. At the last session, it would be recollected that the estimate of the Engineer department, relative to this road, was laid before the Senate. $650,000 was stated as the sum requisite to put it in a state of complete repair. The Senate thought then that it would be judicious to make that appropriation, and thereby get rid of the burden at once. The House, however, thought differently, and appropriated only $300,000. No one supposed that that was enough to put the road in a state of repair. No one con-

tended that the sum was sufficient to carry into effect the plan of completion proposed by the officers of the Government.

This bill, then, as he understood it, was to appropriate that portion of the original sum, which had been stricken from the bill of last session, to the completion of this road. He trusted that this would be granted; it was the part of prudence to accede to the demand, and thereby get rid of the road, by putting it in such a condition that it would be accepted by the States.

Mr. CLAY remarked that he would not have said a word then, but for the introduction in this discussion of collateral matters not immediately connected with it. He meant to vote for the appropriation contained in the bill, and he should do so with pleasure, because, under all the circumstances of the case, he felt himself called upon by a sense of imperative necessity to yield his assent to the appropriation. The road would be abandoned, and all the expenditures which had heretofore been made upon it would have been entirely thrown away, unless they now succeeded in obtaining an appropriation to put the road in a state of repair. Now, he did not concur with the gentleman [Mr. EWING] that Ohio could, as a matter of strict right, demand of the Government to keep this road in repair. And why so? Because, by the terms of the compact under the operation of which the road was made, there was a restricted and defined fund set apart in order to accomplish that object; and that fund measured the obligation of the Government. It had been, however, long since exhausted. There was no obligation, then, on the part of the Government, to keep the road in repair. But he was free to admit that considerations of policy would prompt it to adopt that course, in order that an opportunity should be presented to the States to take it into their own hands.

The honorable Senator from Pennsylvania felicitated himself on having, at a very early epoch, discovered the unconstitutionality of the general Government erecting toll-gates upon this road, and he voted against the first measure to carry that object into execution. He (Mr. C.) must say that, for himself, he thought the general Government had a right to adopt that course which it deemed necessary for the preservation of a road which was made under its own authority. And, as a legitimate consequence, from the power of making a road was derived the power of making an improvement on it. That was established; and, on that point, he was sure the honorable gentleman did not differ from those who were in favor of establishing toll-gates at the period to which he had alluded. He (Mr. C.) would repeat that, if the power to make a road were conceded, it followed, as a legitimate consequence from that power, that the general Government had a right to preserve it. And, if the right to do so, there was no mode of preservation more fitting and suitable than that which resulted from a moderate toll for keeping up the road, and thus continuing it for all time to come.

The opinion held by the honorable Senator, at the period to which he had adverted, was not the general opinion. He would well remember that the power which he (Mr. C.) contended did exist was sustained in the other branch of the Legislature by large majorities. And in that Senate, if he was not mistaken, there were but nine dissentients from the existence of it. If his recollection deceived him not, he had the pleasure of concurring with the distinguished individual who now presided over the deliberations of that body. He thought that he, [the VICE PRESIDENT,] in common with the majority of the Senate and House of Representatives, coincided in the belief that a road, constructed under the orders of the general Government, ought to be preserved by the authority which brought it into being. Now, that was his (Mr. C's) opinion still. He was not one of those who, on this or any other great national subject, had changed his opinion in consequence of being wrought upon by various conflicting circumstances.

With regard to the general power of making internal improvements, as far as it existed in the opinions he had frequently expressed in both Houses, his opinion was unaltered. But with respect to the expediency of exercising that power, at any period, it must depend upon the circumstances of the times. And, in his opinion, the power was to be found in the constitution. This belief he had always entertained, and it remained unshaken. He could not coincide in the opinion expressed by the honorable Senator from Pennsylvania and the honorable Senator from Massachusetts, in regard to the disposition that was to be made of this road.

What, he would ask, had been stated on all hands? That the Cumberland road was a great national object, in which all the people of the United States were interested and concerned: that we are interested in our corporate capacity, on account of the stake we possessed in the public domain, and that we were consequently benefited by that road: that the people of the West were interested in it as a common thoroughfare to all places, from one side of the country to the other. Now, what was the principle of the arrangement that had been entered into? It was that this common object, this national object, this object in which all the people of this country were interested—its care, its preservation—was to be confided to different States, having no special interest or motive in its preservation, and therefore not responsible for the consequences that might result. The people of Kentucky and Indiana, and of the States west of those States, as well as the people living on the eastern side of the mountains, were all interested in the use and occupation of this road, which, instead of being retained and kept under the control of that common Government in which all had a share, their interest in it was to be confided to the local jurisdictions through which the road passed, and thus the States, generally, were to depend upon the manner in which they should perform their duties—upon those having no sympathy with them—having no regard for their interest, but left to do as they chose in regard to the preservation of this road.

He would say that the principle was fundamentally wrong. He protested against it; had done from the first, and did so again now. It was a great national object, and they might as well give the care of the mint to Pennsylvania; the protection of the breakwater, or of the public vessels in New York, Baltimore, and Philadelphia, to the respective Legislatures of the States in which that property was situated, as give the care of a great national road, in which the whole people of the United States were concerned, to the care of a few States which were acknowledged to have no particular interest in it—States having so little interest in that great work that they would not repair it when offered to their hands.

But, he said, he would vote for this appropriation; he was compelled to vote for it by the force of circumstances over which he had no control. He had seen, in reference to internal improvements, and other measures of a national character, not individuals merely, but whole masses—entire communities—prostrating their own settled opinions, to which they had conformed for half a century—wheel to the right or the left—march this way or that, according as they saw high authority for it. And he saw that there was no way of preserving this great object—which afforded such vast facilities to the Western States—no other mode of preserving it, but by a reluctant acquiescence in a course of policy which all, at least, had not contributed to produce, but which was formed to operate on the country, and from which there lay no appeal.

Mr. C., in conclusion, again reiterated that he should vote for the appropriation in this bill, although very reluctantly, and with the protest, that the road in question, being the common property of the whole nation, and under the guardianship of the general Government, ought not to be treacherously parted from by it, and put into the hands of the local Governments who felt no interest in the matter.

Mr. WRIGHT rose and said it was not his purpose to debate the question, but he had merely risen to suggest an amendment, in order to make the acceptance of the road by the States a condition of the payment of the appropriation. It was the object of all to get rid of the road, and to discharge the general Government from all further responsibility concerning it by the present appropriation. He thought this was the object last year, and it was avowed to be so now. Was there at present any certainty that the road would be accepted by the States? Might not the same reply as before be made, that the road was not in repair? Was it, therefore, unreasonable to ask the friends of the bill, who say that the States will now be satisfied, to agree to such an amendment as he had suggested?

Mr. HILL said that the bill before the Senate was the same as that passed last session. He thought that not a dollar should then have been appropriated. He could not vote for the bill, so as to put the general Government at the mercy of the States. If the States were to require of Congress to pave the road with gold, precisely the same reasons might be brought forward in support of the requisition as are adduced now.

Mr. BUCHANAN said he did not rise for the purpose of again adverting to the merits of the proposed appropriation, but merely to make a few remarks in reply to the Senator from Kentucky, [Mr. CLAY.] He (Mr. B.) had got between two fires, from what he considered opposite extremes. Whilst the gentleman from South Carolina [Mr. PRESTON] thought he went too far in favor of internal improvement, the gentleman from Kentucky [Mr. CLAY] blamed him for not going far enough. On this subject they were the two extremes; and he should adopt for the rule of his conduct the maxim "*in medio tutissimus ibis.*" The true course, in his opinion, was midway between them.

Mr. B. said that if the present were a proper occasion to enter into the argument, he thought he could prove most conclusively that there was a vast difference between the power of simply appropriating money for the construction of roads, and that of exercising jurisdiction over them after they are completed. The one was the mere application of the funds of the Government to accomplish a particular object, whilst the other invaded the jurisdiction of the States, and entered upon their soil, for the purpose of erecting toll-gates upon these roads, and levying toll from passengers. To carry this power into effect it would be necessary to establish officers along these roads under the authority of the United States. He considered the assumption of jurisdiction over the soil a much higher power than the mere appropriation of money. What, he asked, would be the argument to establish this jurisdiction? Congress possess the power to appropriate money for the construction of post roads; and therefore it follows that they may take these roads under their own jurisdiction for the purpose of preserving them, may erect toll-gates upon them, and enact the laws necessary to carry these powers into execution. An incidental power cannot transcend its principal; the stream cannot rise higher than its fountain; and, even admitting the power of Congress to make internal improvements, he utterly denied the power of erecting toll-gates upon them, and thus exercising jurisdiction over them. He would merely observe, in relation to a remark of the gentleman, [Mr. CLAY,] that if whole masses—whole communities—had changed their opinions in regard to particular subjects, for himself he could say he was not among the number of those who had thus changed. But if this were the proper time to enter into such a discussion, he thought he could show that sufficient reasons existed to justify the change of whole communities on the important question to which the gentleman had evidently alluded.

Mr. B. said that he had made these remarks with the most perfect respect for that gentleman. Towards him he had never entertained any other feeling. He (Mr. B.) had said thus much in his own defence. He could not sit and listen in silent acquiescence to the observations which had been made by that gentleman in the course of his remarks.

Mr. CLAY made a few remarks, in reply to the Senator from Pennsylvania, complimenting him on the ingenuity which he had displayed in stating the question under discussion, and on the complacency with which he regarded his own infallibility, in taking a position between the two extremes. Mr. C. then proceeded to show that the Senator from Pennsylvania had strained a point for the purpose of bringing up a constitutional discussion, and had charged on the friends of the bill a desire to interfere with the jurisdiction of the States, when no such thing was ever dreamed of. The Senator admitted the power to create a national road, but contended, the moment the road was made, there was no power in the Government to preserve it in a state of efficiency for the purposes for which it was created. This reasoning Mr. C. denounced as preposterous.

The Senator from Pennsylvania had disclaimed any intention to be personal in his remarks. He (Mr. C.) had stated that whole masses, communities, had changed. This he had stated as a great historical fact, and he had said nothing further. The gentleman from Pennsylvania said he could have given sufficient reasons for these changes. I am sorry, said Mr. C., that he did not give the philosophical-political explanation of the changes, and expose the remarkable causes of this singular political phenomenon.

Mr. WRIGHT said he should vote against striking out the second and third sections of the bill, because he hoped that the bill would be so amended as to render it certain that the road should hereafter be kept up at the expense of the States. Unless the bill was amended, he should give his vote against it.

Mr. KING, of Alabama, said that he should vote for the bill, and against striking out the section. The time had gone by, and therefore it was too late to discuss now whether or not Congress possessed the power either to construct or repair the road. He could not, however, agree with the gentleman from Ohio, [Mr. EWING,] that Congress were absolutely bound by every earthly obligation to go beyond the expense of putting the road in a state of repair. He knew not what change might have taken place in the opinions of honorable gentlemen in reference to the right of the general Government to establish toll-gates on the Cumberland road; for himself, he could only say that he never entertained the opinion that the power did exist, and his sentiments therefore were unchanged on that subject. The expenditure on the road in question had been most enormous, and there was very little hope that it would be less, or that the Government would get rid of it at all, unless some provision were inserted in the bill, making the prior surrender of the road to the States the condition of the payment of the money. He had examined the report of the commissioners relative to the road, and could not discover in it any pledge whatever that the respective States who were parties to the road would take it off the hands of the Government if an appropriation should now be made. In order that gentlemen might be relieved from any

difficulty on this point, he had prepared an amendment which he thought would be approved of, and have the desired effect. He was glad to hear the Senator from Pennsylvania say it was the intention of his State to receive the road if the appropriation now asked for should be made. If, however, the States did not then choose to take it, the Senate would be hereafter estopped from making any further appropriation. It was his determination, at least, not to vote for another.

Mr. K. then offered his amendment, which was, in effect, a provision that the acceptance of the road by the several States should be received previous to the payment of the amount of the appropriation out of the treasury.

Mr. HENDRICKS accepted the amendment.

The question was then taken on the motion of Mr. PRESTON to strike out the second and third sections, and was decided as follows:

YEAS—Messrs. Black, Brown, Calhoun, Cuthbert, Hill, King of Georgia, Leigh, Mangum, Moore, Preston, Ruggles, Shepley, Tyler, White—14.

NAYS—Messrs. Benton, Bell, Bibb, Buchanan, Clay, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Kane, Kent, King of Alabama, Knight, Linn, McKean, Morris, Naudain, Poindexter, Prentiss, Robbins, Robinson, Silsbee, Smith, Southard, Swift, Tallmadge, Tipton, Tomlinson, Waggaman, Webster, Wright —32.

Mr. HILL then moved to amend the bill by striking out the word "two," in the first section, and inserting "one;" so as to reduce to one-half the appropriation for the State of Ohio.

The motion was negatived without a division.

The bill was then reported to the Senate without amendment, and ordered to be engrossed for a third reading: Ayes 32, noes 9.

On motion of Mr. KANE, the Senate proceeded to the consideration of executive business: and, after the doors were reopened,

The Senate adjourned.

THURSDAY, FEBRUARY 12.

GENERAL POST OFFICE.

The resolution offered by Mr. HILL, on the subject of the debts of the General Post Office, being taken up for consideration, it was,

On motion of Mr. HILL, postponed until Tuesday, and made the order for that day.

On motion of Mr. SMITH, the resolutions on the same subject, offered by him, were taken up for consideration.

Mr. SMITH stated that the consideration of these resolutions had been postponed until the reports of the Committee on the Post Office should have been printed. He had thought that no gentleman would wish to take up the resolutions until he should have had time to examine the report. That report was now laid on their tables, and he would move that the resolutions be made the special order for Tuesday next.

The motion was agreed to.

REMISSION OF DUTIES.

The Senate proceeded to consider, as in Committee of the Whole, the bill authorizing a remission of duties on all railroad cars and car-irons which were ordered prior to 1st January last.

Mr. HILL asked that some good reason might be given by the committee why the bill should pass.

Mr. TYLER said he thought the bill explained itself.

Mr. HILL said his objection was, that he did not know why these large companies should be exempt from the payment of duties rather than individuals.

Mr. TYLER said this was a subject in which the public had a direct interest; it was not simply for the benefit of the large companies.

Mr. FRELINGHUYSEN said he saw no reason for the remission of the duties upon these articles, or that they should be refunded if they had been paid. Our iron establishments were quite sufficient to supply all the demand for those articles, as he had been informed by a manufacturer, and at a reasonable price. Why, then, should we prefer the foreign manufacture to our domestic establishments? He moved that the bill be laid on the table.

The motion was agreed to.

CAREY & LEA'S HISTORY OF CONGRESS.

The Senate then proceeded to the consideration of the joint resolution reported by the Library Committee, authorizing the purchase of 500 copies of Carey & Lea's History of Congress.

Mr. HILL asked the committee to give some reason why this bill should pass.

Mr. KING, of Georgia, expressed a wish that the bill might be permitted to lie on the table until the information called for from the Secretary of the Senate, relative to the amount of printing authorized by Congress, could be had. It was essential, to enable us to act understandingly on the subject, that the information called for should be obtained—it was indispensable. With regard to the value of this work, Mr. K. said it might be a good and useful work, and it might be, like many others we had purchased, totally useless and worthless.

Mr. POINDEXTER enlarged upon the merits of the work; he said it could not progress without the patronage of the Government. It was of great utility to every statesman, because it contained the whole history and proceedings of Congress and the Government, in a condensed form, and gentlemen could not afford to purchase it for their private libraries.

Mr. BENTON said that, about seven years ago, the Senate purchased one of those works called a Political Register, and he took occasion to look into it, to examine it closely, and found it to be a complete exemplification of the *suggestio falsi* and *suppressio veri*. Many things were omitted which members said, and many things were put into their mouths which they never did say. So far as he himself was concerned, Mr. B. said it contained a general libel on him. He looked over the Register of the last session, and he believed that, in the matter that there appeared under his name, there was not one paragraph which was not more or less a downright falsification of what he said, and there was hardly a sentiment in it, or a fact stated in it, which he actually said. There were two papers in this city, the Telegraph and National Intelligencer, both of which, three or four years ago, were very obliging to him. They both uniformly published his speeches, and whenever he desired alterations to be made in them, they did it very obligingly; and whenever he wanted to improve them, (and he did not hesitate to say that he did improve them,) they cheerfully consented to it. But within the last three years, both these papers had entirely changed their conduct towards him. And one of them, the National Intelligencer, refused, out and out, to publish one of his speeches against the Bank of the United States. Yes, sir, Mr. B. said, they refused to publish his main speech, on the ground that it was too long; and when he afterwards offered to abridge it, they totally refused to publish it, while they published every thing that was said on the other side. The Telegraph did the same thing, and the gentlemen on the other side not only saw the notes, but the proofs too. With respect to the proposition now before the Senate, to buy these books, he perceived there the name of one of the

employers of the Bank of the United States, and he had received information from Philadelphia that these persons were busily engaged last winter in keeping and fomenting the panic which was in a course of preparation and performance. He was opposed to this proposition, because, among other reasons, this History of the Congress of the United States, by Carey & Lea, was a history of Congress by the Bank of the United States. This was all he had to say on this subject at this time. But with regard to this business of printing in the Senate, it exceeded all the other abuses of the Government, including the Post Office, put together. In 1819 the expense for printing amounted to $15,000, while, last year, he believed, it amounted to $150,000. And propositions for single jobs passed here, almost without opposition, incurring an expenditure equal to the whole sum paid in 1819. He took the opportunity now to give notice that, as often as propositions were introduced here for extra jobs, he would be brought to his feet, and on the subject of this great and crying abuse, he would show them to the country in all their enormity; and also show that, while we were seeking to remove the mote from the eye of others, we would not perceive the beam in our own.

Mr. KING, of Georgia, said that where propositions had been made to purchase works, in this way, he always purchased them with his own money. But the value and usefulness of them would vanish like a sprite, if a proposition should be introduced to make the expenditure for them out of our own pockets. He did not know the value of this work, as he before remarked. But he did know that it would be very expensive. Honorable gentlemen agreed that such works were necessary to us in the discharge of our legislative duties. If they were so, he would be willing to vote money enough to purchase a sufficient number for our purpose. He would go as high as fifty copies, to be placed in the library, And surely this was a liberal number. If the resolution were thus modified he would support it. He was not in favor of purchasing them for the members, to be taken home and used for their individual purposes. We had already engaged in a work for which we were to pay $420,000, at least, and which, had it not been for the commendable zeal and care of the committee last year, would have cost the Government at least $3,000,000.

Mr. HILL followed in a long enumeration of orders given by Congress to various individuals, for the supply of books to the members of the two Houses, and argued at considerable length to show that it was an abuse which ought not to be continued, and against the purchase of the work in question.

The hour for the special orders having arrived,

On motion of Mr. CALHOUN, the resolution was laid on the table.

CUSTOM-HOUSE OFFICERS.

The Senate then resumed, as in Committee of the Whole, the consideration of the bill fixing the number and salaries of the custom-house officers of the United States—the amendment offered by Mr. BIBB, increasing the salary of the collector for the district of Sandusky from 400 to $600, still pending.

Mr. SILSBEE opposed the amendment on the ground that, if this alteration were made, others of a similar class must also be made. The committee, he said, had regulated these salaries as well as they could be at present.

Mr. CALHOUN hoped the bill would be suffered to progress without being overloaded with amendments.

Mr. KING, of Georgia, thought, if this amendment prevailed, it would destroy the whole bill. He thought the sum sufficient, where the duty required was so little. But a small part of the time was necessarily occupied.

After some further remarks by Mr. SILSBEE, the question was put, and the amendment rejected.

Mr. ROBBINS then proposed to raise the salary of the collector at Newport, Rhode Island, from $1,500 to $1,800.

Mr. SILSBEE objected; and, after some little discussion between Mr. ROBBINS and Mr. SILSBEE, the question was put on the proposed amendment, and decided in the negative.

Mr. GOLDSBOROUGH said that he had received a remonstrance on the subject of the operation of this bill, which he wished to have read. It was contained in a memorial from the inspectors of Baltimore, who complained of the abridgment of their numbers and of their pay for the duties which they had to perform.

The memorial was then read.

Mr. GOLDSBOROUGH then moved to amend the bill, in the first section thereof, in reference to the custom-house at Baltimore, by striking out the word "ten," before the words "inspectors and measurers," and inserting "fourteen;" and by striking out the word "six," before the words "temporary inspectors," and inserting the word "two."

Mr. G. said he found there were at present employed at Baltimore only ten permanent and six temporary inspectors. If there was any port in this country, more than another, where it was necessary that there should be a sufficient number of inspectors kept, it was Baltimore. The duties of that class of officers at that port were very arduous and laborious, as they had to examine every vessel that arrived there, to prevent violations of the revenue law. And he would say that there was not a port in the Union where there were greater opportunities presented for committing these violations than Baltimore; and for the reason that it was contiguous to the most delightful waters in the world, forming the arms of the bay, and they were varied again into navigable rivers, creeks, and inlets and harbors. He did not believe there was any other place which could boast of so many navigable points, from which vessels could arrive in their way to that port, as Baltimore. It was, then, in the power of those who were so disposed to violate the law. And it might be accomplished in this way: As soon as foreign ships entered the chops of the bay, they could then steer for one of the various rivers, creeks, or inlets, and there transship their goods to one of the ordinary bay vessels, which would convey them to Baltimore, under the most complete disguise and secresy, no one supposing that they contained any thing more than the ordinary merchandise brought from some coastwise port. Now, the duty of the inspectors at Baltimore was to visit not only vessels coming from abroad, but also these bay vessels, of which there were a great number, in order to prevent those violations of the revenue law which would certainly be practised, did they not do so. They were compelled to keep a close and constant supervision over these vessels, and, consequently, their labors were greatly increased. Instead of ten performing these duties, the number which he had named to be inserted in the bill would find ample employment in discharging them. Under these circumstances, therefore, he hoped the amendment which he had proposed would be adopted.

Mr. SILSBEE stated the reasons which compelled him to oppose the motion to amend, the bill having been carefully adjusted, and any amendment being calculated to destroy its congruity.

After a few additional remarks from Mr. GOLDSBOROUGH, and further explanations, the amendment was negatived.

Mr. WRIGHT moved to amend the bill by introducing a new section, to authorize the naval officer at each port to depute a clerk to sign papers during his

absence from the port; which was agreed to without opposition.

Mr. KENT moved to amend the bill by increasing the sum fixed as the salary for the collector at Georgetown from 800 to 900 dollars; which was negatived.

Mr. PORTER moved to amend the bill by striking out 300 dollars as the salary fixed for the collector at Teche, and inserting 500 dollars; which was negatived.

Mr. KING, of Georgia, moved to amend the bill by striking out the words "St. Mary's, Georgia," so as to leave that port on the footing on which it at present stands. The motion was negatived.

Mr. PORTER moved to amend the bill by inserting, after the word "Mobile," the words "and Teche;" which was agreed to.

Mr. KNIGHT moved to amend the bill by making the salaries of the collectors at Newport and Bristol, Rhode Island, 1,650 dollars each; but objections being urged by Mr. SILSBEE, Mr. KNIGHT withdrew his proposition.

Mr. SHEPLEY moved to increase the amount fixed as the salary of the collector at Saco, from 200 to 400 dollars; which was negatived.

Mr. SHEPLEY moved to amend the bill by inserting a salary of 1,000 dollars for a surveyor at Frankfort.

After a few words from Mr. SHEPLEY, Mr. SILSBEE, and Mr. TOMLINSON, the motion was negatived.

Mr. SHEPLEY then moved to amend the bill by increasing the number of officers; which was negatived.

The bill was then reported as amended, and the amendments were concurred in.

Mr. FRELINGHUYSEN renewed his motion to increase the compensation of the surveyor of the port of Camden, New Jersey, to 400 dollars; which was negatived.

The bill was then ordered to be engrossed for a third reading.

EXECUTIVE PATRONAGE.

Mr. CALHOUN moved to postpone all the preceding orders, for the purpose of taking up the special orders, consisting of the resolution and bills reported by the select committee on executive patronage.

The motion being agreed to,

Mr. CALHOUN gave notice that he should to-morrow, at one o'clock, call up the bill to repeal the four years' law.

Mr. KENT moved that hereafter, to the end of the session, the hour of meeting shall be 11 o'clock, instead of 12 o'clock; which was negatived.

The Senate then adjourned.

FRIDAY, FEBRUARY 13.

CUSTOM-HOUSE OFFICERS.

The bill fixing the number and compensation of the custom-house officers of the United States, and to alter certain collection districts, came up on a third reading.

Mr. SILSBEE moved to fill a blank in the bill, prescribing the 31st December next as the period when the bill is to take effect; which was agreed to.

The bill was then read the third time and passed.

COLONEL JOHN LAURENS.

The bill supplementary to the act for the relief of the representatives of Colonel John Laurens was considered as in Committee of the Whole, when it was opposed by Mr. HILL, who asked the yeas and nays upon its passage; which were ordered.

After some remarks from Mr. FRELINGHUYSEN, the bill was ordered to be engrossed for a third reading, by the following vote:

YEAS—Messrs. Bell, Bibb, Black, Clay, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kane, Kent, King of Alabama, Knight, Leigh, Linn, McKean, Moore, Naudain, Poindexter, Prentiss, Preston, Robbins, Robinson, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Tyler, Waggaman, Webster, White—32.

NAYS—Messrs. Benton, Brown, Calhoun, Cuthbert, Grundy, Hill, King of Georgia, Mangum, Morris, Ruggles, Shepley, Tallmadge, Wright—13.

EXECUTIVE PATRONAGE.

At one o'clock, on motion of Mr. CALHOUN, the Senate proceeded to the consideration of the bill reported by him from the select committee on executive patronage, to repeal the first and second sections of an act to limit the terms of service of certain civil officers, approved the 15th of May, 1820.

The bill being taken up as in Committee of the Whole, was read, and

Mr. CALHOUN said this is not the first time that the measure, now under consideration, has been before the Senate. It was introduced eight years ago, on the report of a select committee then raised on executive patronage, as one of the measures then thought necessary to curtail what, at that time, was thought to be the excessive patronage of the Executive. The party then in opposition, and now in power, then pledged themselves to the community that, should they be elevated to power, they would administer the Government on the principles laid down in the report. Mr. C. said that it was now high time to inquire how this solemn pledge, which, in his opinion, imposed a sacred obligation, has been redeemed. Has the plighted faith been kept which the committee gave in the name of the party? Before I undertake to answer this question, it may be proper to inquire who constituted that committee, and what the position they occupy? The chairman was Mr. Benton, now a member of the Senate and of the present committee. The name of Mr. Macon, then a Senator from North Carolina, so well known to the country, stands next; Mr. Van Buren, now Vice President; Mr. Dickerson, now Secretary of the Treasury; Mr. Johnson, now a member of the other House from Kentucky; Mr. White, (then as now of Tennessee,) Senator from Tennessee; Mr. Holmes, of Maine; Mr. Hayne, of South Carolina; Mr. Findley, of Pennsylvania; then distinguished members of this body.

Such was the committee, which then and now stands so high in the confidence of the party now in power. Hear what their report says upon this subject of executive patronage.

Here an extract from the report was read, as follows:

"To be able to show to the Senate a full and perfect view of the power and workings of federal patronage, the committee addressed a note, immediately after they were charged with this inquiry, to each of the Departments, and to the Postmaster General, requesting to be informed of the whole number of persons employed and the whole amount of money paid out, under the direction of their respective Departments. The answers received are hereunto submitted, and made part of this report. With the Blue Book, they will discover enough to show that the predictions of those who were not blind to the defects of the constitution are ready to be realized; that the power and influence of federal patronage, contrary to the argument in the 'Federalist,' is an overmatch for the power and influence of State patronage; that its workings will contaminate the purity of all elections, and enable the federal Government, eventually, to govern throughout the States, as effectually as if they were so many provinces of one vast empire.

"The whole of this great power will centre in the President. The King of England is the 'fountain of

honor;' the President of the United States is the source of patronage. He presides over the entire system of federal appointments, jobs, and contracts. He has 'power' over the 'support' of the individuals who administer the system. He makes and unmakes them. He chooses from the circle of his friends and supporters, and may dismiss them, and upon all the principles of human actions will dismiss them, as often as they disappoint his expectations. His spirit will animate their actions in all the elections to State and federal offices. There may be exceptions; but the truth of a general rule is proved by the exception. The intended check and control of the Senate, without new constitutional or statutory provisions, will cease to operate. Patronage will penetrate this body, subdue its capacity of resistance, chain it to the car of power, and enable the President to rule as easily, and much more securely, with than without the nominal check of the Senate. If the President was himself the officer of the people, elected by them, and responsible to them, there would be less danger from this concentration of all power in his hands; but it is the business of statesmen to act upon things as they are, not as they would wish them to be. We must then look forward to the time when the public revenue will be doubled; when the civil and military officers of the federal Government will be quadrupled; when its influence over individuals will be multiplied to an indefinite extent; when the nomination by the President can carry any man through the Senate, and his recommendation can carry any measure through the two Houses of Congress; when the principle of public action will be open and avowed—the President wants my vote, and I want his patronage; I will vote as he wishes, and he will give me the office I wish for. What will this be, but the government of one man? and what is the government of one man but a monarchy? Names are nothing. The nature of a thing is in its substance, and the name soon accommodates itself to the substance. The first Roman Emperor was styled Emperor of the Republic, and the last French Emperor took the same title; and their respective countries were just as essentially monarchical before as after the assumption of these titles. It cannot be denied or dissembled, but that the federal Government gravitates to the same point, and that the election of the Executive by the Legislature quickens the impulsion.

"Those who make the President must support him. Their political fate becomes identified, and they must stand or fall together. Right or wrong, they must support him; and if he is made contrary to the will of the people, he must be supported not only by votes and speeches, but by arms. A violent and forced state of things will ensue; individual combats will take place; and the combats of individuals will be the forerunner to general engagements. The array of man against man will be the prelude to the array of army against army, and of State against State. Such is the law of nature; and it is equally in vain for one set of men to claim an exemption from its operation, as it would for any other set to suppose that, under the same circumstances, they would not act in the same manner. The natural remedy for all this evil would be to place the election of President in the hands of the people of the United States. He would then have a power to support him which would be as able and as willing to aid him, when he was himself supporting the interest of the country, as they would be to put him down when he should neglect or oppose those interests. Your committee, looking at the present mode of electing the President as the principal source of all this evil, have commenced their labors at the beginning of this session, by recommending an amendment to the constitution in that essential and vital particular; but in this, as in many other things, they find the greatest difficulty to be in the first step. The committee recommend the amendments, but the people cannot act upon it until Congress shall 'propose' it, and peradventure Congress will not 'propose' it to them at all.

"It is no longer true that the President, in dealing out offices to members of Congress, will be limited, as supposed in the Federalist, to the inconsiderable number of places which may become vacant by the ordinary casualties of deaths and resignations; on the contrary, he may now draw, for that purpose, upon the entire fund of the executive patronage. Construction and legislation have accomplished this change. In the very first year of the constitution, a construction was put upon that instrument which enabled the President to create as many vacancies as he pleased, and at any moment that he thought proper. This was effected by yielding to him the kingly prerogative of dismissing officers without the formality of a trial. The authors of the Federalist had not foreseen this construction; so far from it, they had asserted the contrary, and, arguing logically from the premises 'that the dismissing power was appurtenant to the appointing power,' they had maintained, in No. 77 of that standard work, that, as the consent of the Senate was necessary to the appointment of an officer, so the consent of the same body would be equally necessary to his dismission from office. But this construction was overruled by the first Congress which was formed under the constitution; the power of dismission from office was abandoned to the President alone, and, with the acquisition of this prerogative alone, the power and patronage of the presidential office was instantly increased to an indefinite extent; and the argument of the Federalist against the capacity of the President to corrupt the members of Congress, founded upon the small number of places which he could use for that purpose, was totally overthrown. So much for construction. Now for the effects of legislation; and without going into an enumeration of statutes which unnecessarily increase the executive patronage, the four years' appointment law will alone be mentioned; for this single act, by vacating almost the entire civil list once in every period of a presidential term of service, places more offices at the command of the Pesident than were known to the constitution at the time of its adoption, and is, of itself, again sufficient to overthrow the whole of the argument which was used in the Federalist."

It is impossible, said Mr. C., to read this report, which denounces in such unqualified terms the excess and the abuses of patronage at that time, without being struck with the deplorable change which a few short years has wrought in the character of our country. Then we were sensitive in all that related to our liberty, and jealous of patronage and Governmental influence; so much so, that a few inconsiderable removals, three or four printers, roused the indignation of the whole country—events which would now pass unnoticed. We have grown insensible, become callous and stupid.

But let us turn to the question which I have asked. How has the plighted faith of the party been fulfilled? Have the abuses then denounced been corrected? Has the four years' law been repealed? Has the election of the President been given to the people? Has the exercise of the dismissing power by the President, which was then pronounced to be a dangerous violation of the constitution, been restored to Congress? All these pledges have been forgotten. Not one has been fulfilled. And what justification, I ask, is offered for so gross a violation of faith? None is even attempted; the delinquency is acknowledged; and the only effort which the Senator from Missouri has made to defend his own conduct and that of the administration, in adopting the practice which he then denounced, is the plea of retaliation. He says that he had been fourteen years a mem-

ber of the Senate; and that, during the first seven, no friend of his had received the favor of the Government; and contends that it became necessary to dismiss those in office to make room for others who had been for so long a time beyond the circle of executive favor. What, Mr. C. asked, is the principle, when correctly understood, on which this defence rests? It assumes that retaliation is a principle in its nature so sacred, that it justifies the violation of the constitution, the breach of plighted faith, and the subversion of principles the observance of which had been declared to be essential to the liberty of the country. The avowal of such a principle may be justified at this time by interested partisans; but the time must arrive when a more impartial tribunal will regard it in a far different light, and pronounce that sentence which violated faith and broken pledges deserve. Mr. C. said the bill now before the Senate affords an opportunity to the dominant party to redeem its pledge, as late as it is, and to avert, at least in part, that just denunciation which an impartial posterity will otherwise most certainly pronounce on them. He hoped that they would embrace the opportunity, and thereby prove that, in expelling the former administration, they were not merely acting a part, and that the solemn pledges and promises then given were not electioneering tricks, devoid of sincerity and faith. I consider it, said Mr. C., as an evidence of that deep degeneracy which precedes the downfall of a republic, when those elevated to power forget the promises on which they were elevated; the certain effect of which is to make an impression on the public mind that all is juggling and trickery in politics, and to create an indifference to political struggles, highly favorable to the growth of despotic power.

Mr. BENTON replied at much length.

Mr. SOUTHARD said that the proposition then before the Senate had relation entirely to the bill which had been proposed by the select committee as one of the means by which executive power was to be restrained. When he said this, his object was to draw the attention of the Senate to the subject under consideration, not to meet any statements with regard to financial matters. The simple proposition was, was it proper that the bill should pass? The first section of the bill supplied two sections of the bill passed in 1820, and the second section provided that Congress shall be aware who are public defaulters, declaring that the commissions of such shall expire. The last provision required that the President should assign to the Senate his reasons, when he removes a public officer from office. He approved of the first provision of the bill, because he believed that the act of May, 1820, placed too much power in the hands of the President, and had accomplished none of the intentions for which it was framed. The act required that certain officers should be appointed for the term of four years, and the intention was to bring those officers (who were disbursing officers) before the Executive at the end of every four years, in order that, if their official conduct had not been correct, he might, by failing to renominate, get rid of them without the formality of a removal. The object certainly was a good one, but it had tended to increase the power of the Executive to an extent not anticipated at the time of the passage of the law. The law went into operation immediately preceding the presidential election, and every four years afterwards the officers appointed under it were to go out of office if not reappointed. Now, could any man not see that all these officers would feel themselves dependent on the Executive, who had the power to leave them out or renominate them. The law as it stood placed every man, who was not above being bribed by office, in the market, feeling and acting on the principle that he was to support the man who would keep him in office. Pass the bill before the Senate, and the result will be far different. Each office-holder would be independent, and would look solely to a faithful discharge of his duty for his continuance in office. As the law now stood, it was made to operate on the whole band of officers of the Government, as well on the other officers as on the disbursing agents for whom it was originally intended. Each one not influenced by pure motives would say to the Executive, "Will you retain me in office if I support you?" This effect of that law which it was now proposed to repeal must be apparent to every Senator, and he thought, if they would follow it up, it would produce on their minds a deep conviction that the statute book ought to be relieved from it. It was the intention of those who framed that law to bring the officers of the Government before the Executive at the end of every four years, in order that they might be dismissed if found unworthy. But it certainly never was intended that an officer who had fairly disbursed the public money, and faithfully discharged the duties of his office, should be turned out in order to make room for a political partisan. It was intended to secure a greater accountability in the disbursing agents, and, by bringing their conduct more frequently in review, to secure to the Government the services of the most trust-worthy individuals. But had this been the operation of the act? No. The period of four years had been selected as the period when the enemy was to be prostrated, and friends sustained. This mode of executing the act had defeated all the intentions of its framers. It had introduced a different system, with regard to the tenure of office, from that contemplated by those who passed the law. He was of opinion that it would be wise in Congress to dispense with those provisions which tended to make the whole band of office-holders servile suppliants of the Executive, destitute of that independence of character, that manly feeling, which should characterize every public officer. Mr. S. here read from the bill the provisions requiring the President to lay before Cougress the accounts of all district attorneys, marshals, and other disbursing officers, &c.

The object was to exhibit to the Senate the appointing power, the number of those who should fail to render their accounts, and to give to those who should be unfortunate time to repair the accident which deprived them of the ability to make a correct settlement of their accounts. If an officer, therefore, should be a defaulter in September, the account being made up to January, would leave him time to correct the evil, if the default should be the effect of unforeseen accident, and not of criminal conduct. This part of the bill was so plain that he would not detain the Senate longer in commenting on it. The third section of the bill provided, "That, in all nominations made by the President to the Senate, to fill vacancies occasioned by removal from office, the facts of the removal shall be stated to the Senate at the same time that the nomination is made, with a statement of the reasons for such removal."

He valued that provision of the bill very much. He would not, at that time, enter into the subject of removals from office. It had long been a subject of difference with politicians, and had occupied their attention at an early period of the Government. But this section did not interfere with this power of removal. It required simply that the President should state to the Senate, when he removed an officer, that he had removed him, and why. Was there any thing that should make the Executive reluctant to communicate such reasons to his constitutional advisers? We are bound to presume (Mr. S. said) that he has acted under the best considerations. All that was asked of him was to state that he had removed a public officer, and his reasons for so doing, in

order that the Senate, the co-ordinate appointing power, (he said co-ordinate power, because no appointment could be made without the concurrence of the Senate,) might judge of the propriety of appointing another individual to the office thus vacated. The history of this power of removal was not common. In the early periods of our history it was almost unknown. It continued unknown until Mr. Jefferson's time, and had not been exercised at all by one of his predecessors. The Senate would understand him as referring to the administration of Mr. Adams. There was not one removal from office during the presidency of that gentleman.

The Senator from Missouri [Mr. BENTON] had complained that this report, which emanated from the committee, presented a great variety of bills, which were there framed, to limit the executive prerogative, without being calculated to accomplish any other useful purpose. In looking at the report this morning, he did not see any grounds for making this complaint. There was one bill proposing an amendment to the constitution, which did not meet with the gentleman's concurrence. But because he disapproved of one measure of the committee, did it follow that no other was worthy of approbation? He apprehended that the gentleman from Missouri would not reject his own measures (for he was on the committee, and approved of every bill with the exception of the one just named) because more was not done. Of the other bills proposed by the committee, one was for the regulation of the newspapers in which the laws of the United States and the public advertisements shall be inserted. Did the gentleman see no practical good to result from this bill? Another was to regulate the appointment of postmasters. The provisions in this bill had just been passed by the Senate by a unanimous vote, in the bill to reorganize the Post Office Department; and it was not, therefore, necessary to pass such provisions as were contained in this second bill of the committee, after one had passed the Senate for that purpose. The next bill was for the regulation of the appointment of cadets and midshipmen. He could not answer for what was the practice of the Departments now, with regard to such appointments, but he well knew what was the practice some time ago; and it was to carry the provisions of this very bill into effect. In conclusion, he trusted, therefore, that these bills would find favor with those who had heretofore supported similar measures.

Mr. CALHOUN said that the whole course of the Senator from Missouri, on this occasion, was unbecoming a gentleman; and I appeal to the Senate to bear witness that, in repelling his charges, I have acted on the defensive. However offensive to him, I retract or explain nothing which I asserted when last up. On the contrary, I reaffirm that part of the report which the Senator considers so offensive, and the expression which he has thought proper to consider as casting a personal imputation. Yes, in spite of all he says, the practice of the administration, in dismissing faithful officers, on party grounds, and supplying their places with political partisans, has the tendency to produce all the results which I have attributed to it, and must ultimately convert the whole body of office-holders into corrupt sycophants and supple instruments of power, if persisted in. In making this assertion, which has given him such offence, I have his own authority. In his report, in 1824, he condemned the practice in language as strong, if not stronger, than that which is used in the present report, which he has seized upon to justify his abusive language. To refresh his memory, I will read an extract from that report, which will enable the Senator to judge with what propriety he, who then held such language, should now be so offended that it should be repeated by me.

[Here Mr. C. read as follows, from Mr. BENTON's report of 1824:]

"The whole of this great power will centre in the President. The King of England is the 'fountain of honor;' the President of the United States is the source of patronage. He presides over the entire system of federal appointments, jobs, and contracts. He has power over the 'support' of the individuals who administer the system. He makes and unmakes them. He chooses from the circle of his friends and supporters, and may dismiss them, and upon the principles of human action will dismiss them, as often as they disappoint his expectations. His spirit will animate all their actions in all the elections to State and federal offices. There may be exceptions, but the truth of a general rule is proved by the exception. The intended check and control of the Senate, without new constitutional or statutory provisions, will cease to operate. Patronage will penetrate this body, subdue its capacity of resistance, chain it to the car of power, and enable the President to rule as easily, and much more securely, with than without the nominal check of the Senate. If the President was himself the officer of the people, elected by them, and responsible to them, there would be less danger from this concentration of all power in his hands; but it is the business of statesmen to act upon things as they are, and not as they would wish them to be. We must, then, look forward to the time when the public revenue will be doubled; when the civil and military officers of the federal Government will be quadrupled; when its influence over individuals will be multiplied to an indefinite extent; when the nomination of the President can carry any man through the Senate, and his recommendation can carry any measure through the two Houses of Congress; when the principle of public action will be open and avowed—the President wants my vote, and I want his patronage; I will vote as he wishes, and he will give me the office I wish for. What will this be but the government of one man? and what is the government of one man but a monarchy? Names are nothing. The nature of a thing is in its substance. The first Roman Emperor was styled Emperor of the Republic, and the last French Emperor took the same title; and their respective countries were as essentially monarchical before as after the assumption of these titles."

Mr. C. proceeded. This is the language of the Senator himself. It is a prophecy. Have we not reached the state that was predicted? And we behold him, who foretold these disasters, now advocating the cause which produced them.

I understood (said Mr. C.) when I moved the resolution on the subject of patronage, the nature of the task in which I had engaged, and its consequences to me personally. I was not so ignorant of human nature, nor of the history of former periods, as not to know that he who undertakes to reform long standing abuses must expect to have his character and motives assailed by those who are profiting by such abuses. I had made up my mind, before I commenced the task, to meet this and every other resistance which I might encounter. Nothing shall drive me back.

Mr. C. proceeded, and said that, in spite of all the zeal which has been displayed to prove that there will be no surplus revenue, I reaffirm there will be a large surplus, provided the expenditure shall not exceed what, on a liberal allowance, it ought to be. Yes, on this supposition there will be an annual average surplus of nine millions for the next seven years, as stated in the report, provided there be no untoward event to prevent it; making, in the aggregate, upwards of sixty millions of dollars. However disguised, the real question is, to whom shall the surplus go? Shall it be left to the disposition of the administration, to be distributed among its partisans, or shall it be returned to the States by amendment to the constitution, as proposed by the com-

mittee? This is the question which has produced the extraordinary excitement which we behold. It is the question which explains the violence and extraordinary course of the Senator from Missouri in this debate.

He clearly sees that this fund is necessary to keep up the ascendency of the party now in power; and hence the efforts which he has made to prevent it from being restored to the States. I, who am opposed to the present state of things, and who see, as I firmly believe, in its continuance, the loss of our liberty, am, for opposite reasons, desirous of returning it to the States. I am not in favor of this measure, because I am in favor of revolution, as the Senator has untruly intimated. There is no man more averse to revolution than myself, and it is because I am so that I feel such solicitude to adopt these peaceful and quiet means of reform which I have proposed, as the only mode of preventing a resort to violence and convulsion.

That our affairs are tending to that result, we daily see too many sad illustrations; and, among them, one which I consider not the least ominous is the almost total decay of all attachment to principle. Frequent and sudden revolutions in opinions of the longest standing, and those thought to be most firmly fixed we see abandoned on the command of power.

I consider (said Mr. C.) the Senator's attempt to devise some scheme to dispose of the surplus revenue, to be as unsuccessful as was his attempt to prove that there would be none. He proposed that it should be expended on the fortifications, and intimates that I have abandoned my former opinion upon that subject. I repel the charge. My opinions are now as they were formerly. I believe that all of the great commercial cities and the great estuaries ought to be defended, and for this purpose I have advocated, and still continue to advocate, a moderate annual appropriation to complete the system; and, so far from abandoning my former opinions, I have accordingly, in estimating what the expenditures ought to be, allowed for fortifications the same as was expended in 1823 on that object, with the addition of 20 per cent.

But the Senator is not satisfied with this large addition. He is for expending the whole surplus of nine millions on fortifications. Can he be serious? Does he believe that it is practicable, if it were desirable, to draw so large an appropriation for this object? Would the interior agree to it? Would the West assert that this immense surplus should be expended on fortifications? No one is more competent to answer these questions than the Senator himself; and yet, although he must know that the whole scheme is utterly impracticable, he gravely rises in his place and proposes it, with a view of defeating the distribution of the surplus. But, suppose it were practicable, how would he dispose of the whole of the fortifications, if the system were completed, with our little army? Or is he prepared to raise the army to thirty or forty thousand men, in order to man these fortifications? Is he ignorant that, in planning a complete and entire system for the defence of the coast, they were distributed into three classes; and that the first, with a few in the second, were intended to be commenced in the present state of the country?

The Senator, among many other instances of his accuracy and skill, has furnished us with a remarkable illustration of his proficiency in arithmetic. He contends that, to have a surplus of nine millions a year, with a standing overplus of two millions in the treasury, the annual surplus must be eleven instead of nine millions, as estimated by the committee; or, in other words, that there must be an overplus of two millions annually, to keep that sum in the treasury at the end of the year. Now, what (said Mr. C.) is the state of the case? The committee assumes that, with an average expenditure of twelve millions, there will be an annual surplus of nine, leaving two millions of the present surplus in the treasury to meet current and contingent expenses; and does not the Senator see that those two millions, on this supposition, will be a standing sum from year to year throughout the whole period? and that to add two other millions annually to that sum would increase the overplus at the rate of two millions per annum, and raise it to fourteen millions at the expiration of seven years? It seems to be the fortune of the Senator, when he undertakes to correct what he deems an error, instead of correcting, to fall into the grossest errors on his own part. The Senator has thought proper to introduce a correspondence between the Register of the Treasury and myself; and what a ridiculous parade he has made about a trifling incident scarce deserving notice. The note appended is correct. I did not receive from the Treasury the information I asked for—the amount of the United States' share of the bank dividend for the last year. I wanted the whole amount, and the Register gave me but that which was actually paid in, and what stands to the credit of the Treasury, and not that part which the bank has retained on account of its claims against the United States. Presuming, from the note of the Register, that he had no official statement of the amount of the last item, I applied to the Senator from Massachusetts [Mr. SILSBEE] to know the dividend which the bank had declared; and learning from him that it was seven per cent., and ascertaining that, at that rate, the amount of the dividend of the last and preceding years was about the same, I took that of the year 1833, instead of that of the year 1834, and appended the note merely to give notice of the fact, without intending to give the slightest cause of offence to the Secretary, or any other officer of the Department, all of whom had been prompt in their endeavors to furnish the information desired.

I stated these facts to the Senator when he showed me the letter of the Secretary to which he has referred, and added that I would cheerfully make the explanation on the first suitable occasion: but the next morning I saw the correspondence in the Globe, and, of course, whether inserted by the Secretary or the Senator himself, self-respect prevented me from giving any explanation in my place; for it had been inserted obviously for party purposes; but seeing the Register, and not believing that he had any thing to do with the publication, I stated the facts to him, and ascertained from him what I had supposed, that he had furnished me all that was in his office, and of course that I could not obtain from him the information desired. This is the whole amount of this ridiculous affair.

I must regret, said Mr. C., in conclusion, that the debate has taken the course which it has. The responsibility is not on me; I have acted throughout on the defensive; I have but repelled the unwarrantable assertions of the Senator from Missouri, and his groundless imputations. The Senate will bear me witness that there is no member of this body more disposed to discuss subjects on their abstract merits, without involving personalities, and that I never deviate from this course but when the remarks of others compel me to do so.

Mr. BENTON then rose and spoke for a considerable time against the report, from which he quoted largely, and commented with great warmth and severity. He read the following: "It is to convert the entire body of those in office into corrupt and supple instruments of power, and to raise up a host of hungry, greedy, and subservient partisans, ready for every service, however base and corrupt."

Mr. B. remarked, "corrupt and supple instruments of power!" and the gentleman has done me the honor to identify me with them, as base and corrupt. Sir,

the Senate prevents me from applying that epithet to him which he deserves, after connecting me with such odious and infamous epithets—of identifying me with those supple and corrupt instruments of power. It is not necessary that I should repel the accusation, for the whole people of the United States will drive it back upon him as a bold and direct attack upon truth!

Mr. POINDEXTER rose and called the gentleman to order. He wished to know whether a Senator on that floor had a right to say that any thing said on it was "a direct attack upon truth?"

Mr. CALHOUN hoped the gentleman from Mississippi would allow the Senator from Missouri to proceed. He cared nothing about the Senator's assertion that he (Mr. C.) was bold enough to make an attack upon truth. Nothing that fell from that gentleman deserved his attention.

Mr. POINDEXTER. My object in calling the Senator from Missouri to order was, that the words which he ascribed to the gentleman from South Carolina, that it was "a direct attack upon truth," might be taken down. I ask if it is in order to use such language?

[Here such was the confusion that prevailed in the Senate—several members speaking at the same time—that not one word of what was said by the VICE PRESIDENT reached the reporter's gallery. When, however, order was in some measure restored—]

Mr. POINDEXTER approached the Clerk's table, and the words were taken down by the Secretary.

Mr. BENTON exclaimed, "Take them down! take them down! I'll sign them!"

Mr. LINN said, would it not be as well to take down the exceptionable words contained in the report, and which the Senator from Missouri had read?

Mr. POINDEXTER. I wish to know whether the words were in order?

The VICE PRESIDENT said the Senator might deny the truth of the statement without intending to impute a wilful misrepresentation of the truth to the gentleman from South Carolina. If the Senator had said that the gentleman had not told the truth, he would have been out of order.

Mr. POINDEXTER asked whether the Senator from Missouri, in alleging that the Senator from South Carolina had made "a direct attack on truth," was not out of order?

The VICE PRESIDENT. The impression of the Chair is, that it was in order to deny the truth of a statement read on that floor, but not what is stated by an honorable Senator.

Mr. WEBSTER dissented from the opinion of the Chair. The word untruth implied an intentional misrepresentation, and the application of it to a member of that body was unparliamentary and out of order. A member may not, said Mr. W., get up and say that the words of another are untrue, because truth is synonymous with veracity. He might say that the words of another were founded in misconception; that he was mistaken, or had unintentionally made an erroneous statement, but he could not charge him with uttering an untruth. He remembered a case of the kind in the other House, when a gentleman of distinction from South Carolina presided there. A member applied certain epithets to the war then pending with Great Britain—he said it was a French war, and another member answered that it was untrue. The Chair decided that the charge implied want of veracity, and that the member making it was out of order.

Mr. W. then appealed to the Senate from the decision of the Chair.

Mr. CUTHBERT said that, in a contest like this, it must be in the power of the presiding officer to show the meaning of the word "truth." There were several kinds of truths—political, mathematical, philosophical, moral, and many other. Now, it was entirely within the competence of the presiding officer to determine whether it was intended to impute, or not, moral crime to any member—such was the latitude of the case.

The VICE PRESIDENT said that, inasmuch as he did not understand the Senator from Missouri to intimate an intention of untruth on the part of the gentleman from South Carolina, he conceived the Senator was not out of order.

Mr. KING, of Alabama, regretted exceedingly the course the debate had taken, because he feared that it would lead to still greater excitement. He regretted it because he thought the gentleman from South Carolina himself had given utterance to expressions produced by the feelings of the moment. He did not, however, admit that the expressions, either of the gentleman from South Carolina or the gentleman from Missouri, were such as to justify the calling them to order. He had, on many occasions, heard in debate expressions such as had fallen from the Senator from Missouri, when no notice was taken of them. It was not unusual to hear the words "unfounded in fact" used in debate. A statement is made by a gentleman as not of his own knowledge, and another applies to it the words "unfounded in fact." This did not put the gentleman applying such language out of order. What the Senator from Missouri said in reference to the Senator from South Carolina did not impeach the personal veracity of that gentleman; and he did hope that the Senator from Missouri would say so at once, and, by putting an end to the question of order, permit the debate to go on. If he was compelled to record his vote, he should be obliged to say that the words of the Senator from Missouri did not impeach the personal veracity of the Senator from South Carolina, and consequently did not put him out of order. He hoped that his friend from Missouri would say that his language did not imply a want of veracity in the Senator from South Carolina, and at once put an end to the delicate question before the Senate.

Mr. LEIGH concurred in the remarks of the Senator from Massachusetts, and consequently should feel himself compelled to vote against the decision of the Chair.

Mr. BIBB said that before he recorded his name on this question, he wished to say that he should feel himself bound to sustain the decision of the Chair, lest the rules of this body, instead of regulating, might be used to restrain debate. He considered the expression "a direct attack on truth" not out of order; it was a mere inference, and was not intended to imply a wilful perversion of facts.

Mr. GOLDSBOROUGH said that it had been many years since he had the honor of a seat on this floor, and the rules for regulating debate might have become more relaxed than formerly, but he was persuaded that if, in the times to which he alluded, a member here had charged another with "a bold and direct attack on truth," not only would the presiding officer have called him to order, but the call would have resounded from all sides of the House. The preservation of decorum in debate is among the first objects of the rules of all deliberative bodies—it is an armor which is thrown around the members for their defence.

The Senator from Kentucky [Mr. BIBB] had been pleased to say that he should sustain the decision of the Chair; lest the rules of the Senate, instead of regulating, might be made to restrain debate. There is (said Mr. G.) another and a much more dangerous means by which the freedom of debate may become restricted; and that is, the overawing debate.

Picture to yourself, sir, said he, on this floor, (and I desire to be understood as making no particular allu-

sions,) a bold, and daring, and reckless man, the reliance of a dominant party, fired with party zeal, and ready to carry measures without calculating consequences; what, he asked, would be the effect produced by such a man upon gentlemen of more meek and gentle tempers? Would it not be to seal their lips and awe them into silence? It is important, therefore, that all due decorum should be preserved in debate: it is essential to its freedom, and constitutes an ægis with which every Senator is to be clad. Mr. G. said he had much satisfaction in looking back and reflecting upon the distinguished character of this Senate, marked as it had been for the highest degree of good order, from the first establishment of the Government.

Mr. G. said he would not undertake, as other Senators had suggested, to submit the declaration, "a direct attack on truth," to either a philosophical or fanciful definition: he regarded it as a substantial charge upon moral integrity, blended with a manner that could not be mistaken. Such an attack on moral character could not be explained away; the truth of the Senator was the target directly aimed at; it was no incidental or accidental affair; and as such Mr. G. regarded it as unfit and out of order.

Mr. LINN rose to express his deep regret that any thing should have arisen to disturb the harmony of the debate. For the honorable Senator from South Carolina he entertained the utmost respect, and for his honorable colleague, whom he had known so many years, he felt the warmest friendship. He regretted the unpleasant occurrence of that morning, though he was bound to say it was not an unusual one. He felt convinced that the Senate had been often out of order, in the course of debate, and the friends of the administration frequently had to bear much from gentlemen on the other side. He had had his feelings often outraged by language used on that floor, and he had spoken of it as disgraceful to the Senate of the United States. Were a Senator to apply language to him not respectful, he would reply to him in such a way as not to make the question of order doubtful; he would reply to him in a manner not to be misunderstood.

Mr. CUTHBERT said that on one point there could be but little question with the Senator from Massachusetts, and that was, that that report was strongly characterized by party feeling; that it contained language which approached to personality could not be doubted by any one who should read it. And there were many expressions, too, which had been the rallying words of the party, not only here, but which had been reverberated throughout this Union. Then, what was to be expected? A party debate. The gentleman from South Carolina identifies the Senator from Missouri with those whom he has chosen to term supple and corrupt instruments of party. When cause is given, the intent follows; when the spark is laid, the magazine is blown up. It was proper that decorum should be observed; but it was highly proper that, when it was disturbed, the blame should be charged upon the individual who should have produced the disorder.

Mr. HENDRICKS wished to state, in a very few words, the reasons why he differed from the decision of the Chair. He agreed with the Chair in the principle he had stated, and the whole case turned on that point: did or did not the language of the Senator from Missouri, imply a want of veracity in the Senator from South Carolina? He had hoped that the Senator from Missouri, by disclaiming such an application as suggested by the Senator from Alabama, would have suffered the debate on the bill to go on. If the Senator from Missouri had disclaimed such intention, he would have felt bound to vote for sustaining the decision of the Chair; but inasmuch as he had not done so, he was bound to believe that he made an improper imputation as to the Senator from South Carolina, and he should therefore vote to sustain the appeal.

Mr. POINDEXTER said he had no personal feeling in calling the Senator from Missouri to order. He thought the Senate should debate within the bounds of decorum; if not, personal collision might follow. The words themselves were words to be decided—not the intention, not the cause which led to them. The simple question was, was it in order for one Senator to say of another, "You have made a direct attack on truth?"

Mr. FRELINGHUYSEN regretted exceedingly that he was called upon to give his vote on the unpleasant question before the Senate, and he would have been very glad if the Senator from Missouri had taken the course suggested by his friend from Alabama. But was it desirable that decorum should be kept up in the Senate, and was it decorous for a Senator to say on that floor that another had made a direct attack on truth? What, asked he, is our object here? Was it not to preserve to the fullest extent the freedom of debate? And if such language was used by one Senator to another, would not the freedom of debate be put an end to? He was compelled to differ with the Chair in its decision that the character of the words used by the Senator from Missouri did not imply an intentional departure from veracity. It was the greatest praise that could be applied to a man to say that he was a man of truth; and to permit a Senator to apply to another, pointing to him as the Senator from Missouri did, and in the way he did, language implying a want of truth, was to lose the decorum that should be preserved on that floor.

Mr. TYLER could not, after the most anxious consideration given to this subject, dissent from the decision given by the Chair; and his opinions, instead of being shaken by quotations from Jefferson's Manual, were strengthened by them. No member in debate, the Manual said, is to call another by name, or to make ascriptions to him of improper motives. Now, he did not think that the Senator from Missouri, as decided by the Chair, imputed a want of veracity to the Senator from South Carolina. The Senator from Alabama [Mr. KING] had no right to call on the Senator from Missouri, as he did, to disclaim any personal imputations. The Senator from Missouri was silenced; he was in a manner under trial; he could make no explanations unless voluntarily. He should have been glad if the Senator from Missouri had taken the course suggested by the Senator from Alabama, for he was sure that the Senator was greatly mistaken when he supposed that the Senator from South Carolina applied the language of the report to him or to his friends. The Senator from South Carolina makes a report in which he applies certain epithets to a certain description of office-holders; and the Senator from Missouri, understanding him as alluding to himself and his friends, makes assertions that he is not corrupt, and that the party with which he acts is not corrupt, and that it is untrue to say that they are. I will not, said Mr. T., ask the gentleman from Missouri for an explanation of his words. I shall, said he, put my own construction on them, and will not by my vote say that the Senator from Missouri intended to apply a want of veracity to the Senator from South Carolina.

Mr. PRESTON expressed himself in favor of allowing great latitude in debate. For his own part, he thought it would be better that gentlemen would concur, and allow the debate to go on, and let the question of order be laid on the table.

Mr. POINDEXTER, in reply to the Senator from South Carolina, said he certainly should have waived the question of order, had he not felt it his duty to bring this matter directly before the Senate for its decision on it. It was not so much a question as regarded the Senators

from Missouri and South Carolina; it was an isolated question. Was it in order for a gentleman to rise in his place, and say that another had made "a direct attack on truth?" If it was in order, let the Senate decide so; he could protect himself. He asked the Senator from Virginia [Mr. TYLER] if such language was decorous? If it was consistent with good manners? Was it fit to be used between gentlemen? The time had been when that body (the Senate) was the most decorous body in the world—he referred to the time alluded to by the Senator from Maryland, [Mr. GOLDSBOROUGH,] and the result was that it had acquired the character of being, also, the most dignified body in the world. But if the Senate should decide that the language used by the Senator from Missouri was in order, be it so. He should give his vote that it was not in order.

Mr. KING, of Alabama, expressed his regret that this misunderstanding should have taken place. He had no doubt that the Senator from South Carolina, when he made an attack on the Senator from Missouri, did not intend to convey any other meaning than the gentleman, from his political position, would be inclined to advocate a certain course of measures approved of by his party. The Senator from South Carolina could not mean to identify him with those whom he had designated supple and servile instruments of power. Mr. K. was sure he did not mean such a thing. And he felt convinced, also, that the Senator from Missouri did not intend to impeach the personal veracity of the member from South Carolina; he therefore hoped the Senator would say so, and that the appeal might be withdrawn.

Mr. BENTON intimated that he should not explain.

Mr. WEBSTER said it was quite impossible that he should withdraw the appeal, unless the honorable gentleman would contrive some mode by which to withdraw the decision of the Chair. If that decision should stand as it was, it would become the law of the Senate, and then one member might apply to another the language used that morning by the Senator from Missouri. The honorable member [Mr. KING, of Alabama] contended that the words of the Senator from Missouri imputed no motives to the Senator from South Carolina. Now he (Mr. W.) said the contrary. The word "truth" implied something distinct and specific, and the charge of the want of it carried home to the member charged an intentional departure from veracity. Such language tended to derogate from the character of the member charged in it, and was a departure from that decorum which ought to be observed in the Senate. What was the proper character of debate? We are not to speak of others (said Mr. W.) as of ourselves—we are not to speak of the proceedings in the other House, and the injunction to speak of others with courtesy was made that we might carry on a debate without turmoil. The question was not as to what might be spoken of parties—of masses—but as to what gentlemen might speak of each other consistentenly with that courtesy which ought to characterize good manners, good feeling, and the order and dignity of the Senate.

The VICE PRESIDENT said he did not understand the gentleman from Missouri as imputing to the Senator a wilful misrepresentation of the fact. Had the Chair been under that impression, it would have decided against the Senator from Missouri. It looked upon the remarks of the Senator as a strong expression of denial of the fact, without calling in question the veracity of the Senator from South Carolina.

Mr. WEBSTER contended that the question must be decided on the words used by the Senator from Missouri. Were those the words used which had been taken down? And the question being precisely on the point—were the words parliamentary? or did they by the force of their terms imply disrespect? That was the reason why the decision should be made on the words themselves, and on nothing else.

Mr. CUTHBERT begged leave to add one word more. Suppose some gentleman in the course of a debate had used language of this kind: "The gentleman belongs to a faction intending to raise itself on the ruins of their country." Would the reply be that the gentleman was in a slight error? When a party was charged with corruption, and a member was characterized as being one of that party, would it be sufficient for him to say that "the gentleman was in a slight error?" He begged, therefore, the gentleman from Massachusetts to let the question take that turn given to it by the gentlemen from Virginia and South Carolina, [Mr. TYLER and Mr. PRESTON.]

The question was here taken, and the decision of the Chair was reversed—yeas 21, nays 23—as follows:

YEAS—Messrs. Bibb, Black, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Mangum, Morris, Preston, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Tyler, White, Wright—21.

NAYS—Messrs. Bell, Clay, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Linn, McKean, Moore, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Webster—23.

The question having been decided, the Chair asked what order would be taken by the Senate. There was a provision in the rules of the other House to meet such a case, but none in the rules of the Senate.

Mr. CALHOUN and Mr. WEBSTER expressed the hope that the Senator from Missouri might be permitted to go on with his remarks; and

Mr. BENTON, with the permission of the Senate, resumed. [Mr. B's speech, *in extenso*, it is believed, has been given in preceding pages.]

Mr. BENTON having concluded his speech,

Mr. GOLDSBOROUGH said it would be recollected, by all who heard him, that he had introduced the delineation alluded to by a preliminary remark, which obviated any supposition of a design to make any personal application. The illustration was elicited by the observations of the Senator from Kentucky, [Mr. BIBB,] to show other sources of danger to the freedom of debate.

Mr. BENTON expressed himself entirely satisfied with the honorable Senator's explanation. When that gentleman should have known him longer, he would discover that, if there was one trait in his (Mr. B's) character more prominent than another, it was that of abstinence from saying any thing that could hurt the feelings of any gentleman. But when attacked he was always ready to defend himself.

Mr. CALHOUN then rose and addressed the Senate as follows:

I rise, said Mr. C., to express my surprise at the course pursued by the Senator from Missouri [Mr. BENTON] who has just taken his seat. He is a member of the committee, and regularly attended its meetings. While the report was before the committee for consideration, he sat in silence, without whispering the objections now urged with so much violence, and in language so unwarranted. I had not intended to go into the report while the present bill was under consideration. It met the approbation of the whole committee, including that of the Senator from Missouri; and I had a right to expect, at least as far as he was concerned, that it would pass without opposition. Under this impression, I had proposed to myself to delay the discussion on the merits of the report till the resolution to amend the constitution, from which the member dissented, came under consideration, when an opportunity would be afforded to repel his

broad and unfounded assertions and fallacious conclusions, and to establish the correctness of the report on all the points on which it had been assailed; but the course pursued by the Senator compels me to repel his assertions without farther delay.

When the subject of printing the report was under consideration, a few days since, he asserted in the boldest manner that the estimate of the committee in relation to the surplus revenue was so wild, that wild was a term too moderate, and that none less strong than "hallucination" could be applied. I then repelled his objections in a manner which I trust was satisfactory to every one capable of estimating the force of just reasoning; but, in order that there might not be a shadow of doubt on a point of so much importance, I have since re-examined the subject, and now pronounce, without the fear of contradiction, that, on the Senator's own premises, the estimate of the surplus, as reported by the committee, is correct, notwithstanding the outrageous extravagance of his assertions. The Senator did not venture any argument of his own to rebut the conclusion of the committee; but, with that deference to power which is one of the characteristics of those with whom he is politically associated, he relied solely upon the statement of the Secretary of the Treasury furnished in his annual report. Now, said Mr. C., it is remarkable that the estimates of the Secretary of the income of the current year, instead of supporting the unwarranted assertion of the Senator from Missouri, coincide remarkably with the estimate of the committee, which shows with what disregard to the state of the facts the Senator ventures his assertions, though uttered with so much confidence. But that there may be no further question on this point, I will turn to the report of the Secretary itself, and compare, in detail, his estimate with that submitted by the committee. Beginning, then, with the customs, which is the principal source of our revenue, the Secretary estimates the income from this source at sixteen millions of dollars; the committee at sixteen millions three hundred and seventy thousand dollars; making a difference of but three hundred and seventy thousand dollars—a very striking coincidence, considering that the calculations rest upon grounds so essentially different. The Secretary assumes as his basis the income from the customs for the last year, without taking into the estimate that a very considerable portion of the receipts from that source last year were derived from duties accrued the preceding year, when the rates were much higher than they are now; but, to balance this error, he omits to take into the account the diminution of the imports of articles subject to duty, in consequence of the disturbed state of the currency, which two sums nearly balance each other; and thus, by two errors of an opposite character, and of nearly equal magnitude, he has accidentally fallen upon the truth.

As to the next greatest source of our revenue, the public lands, the estimates of the Secretary and the committee exactly coincide; both placing it at $3,500,000. The estimates of the remaining resources are placed by the Secretary at $500,070; by the committee at $450,000; making a difference of $50,070 only. Adding these several items on both sides, the aggregate of the Secretary amounts to $20,000,070, and that of the committee to $20,320,000; making a difference of but $319,930. So much for the income. As to the expenditures, I am not ignorant that the Secretary estimates them at $19,683,541, making a difference between that and his estimate of the income of $316,529. The committee, on the contrary, make no estimate of the actual expenditure. Its object was not to estimate the expenditure on the present scale, which is admitted by the Senator himself to be enormous, profuse, and profligate. On the contrary, the object of the committee was to ascertain to what these expenditures might safely be reduced, consistently with the just efficiency of the Government. For this purpose they selected the year 1823 as the basis on which to rest their estimate—a year which the Senator at that time, and those with whom he then acted, denounced as profuse and extravagant, [Mr. BENTON assented,] and which he even now has the assurance to allude to as extravagant, and attempts to hold me responsible as its author. Well, then, I have taken this extravagant period. I have allowed twenty per cent. upon its expenditure, which so many who now support the present administration then pronounced as so extravagant. —Yes, twenty per cent. on the then expenditure on fortifications—on internal improvement—on pensions, and every other item, all of which the Senator has pronounced to have been so extravagant at that period, that even now he holds the then administration responsible, in his zeal to defend the present. I have gone further. I have added the actual increase of pensions, of which he now complains so much, and to which he mainly attributes the present great increase of expenditure, to the twenty per cent., and find that, with all these heavy additions, the expenditure ought not at present to exceed $12,060,412 per annum for the next seven years, which, deducted from the estimate of the receipts of the present year as given by the Secretary of the Treasury, and on which the Senator relies for his uncourteous and extravagant assertions, leaves a balance of $7,939,658. If we allow for the surplus revenue now in the treasury, deducting two millions for contingent expense, and the Government portion of the United States Bank stock, making together $13,039,381, and distribute this sum equally in the next seven years, it would give $1,862,768 to each year. Add this to the surplus already obtained, it would give a balance of upwards of nine millions, as estimated by the committee.

Thus, said Mr. C., the very authority which the Senator resorts to, and on the strength of which he has ventured to utter his bold and lawless denunciations of the report, sustains it in a most remarkable manner, and furnishes a striking proof of the carelessness and inattention of the Senator in his assumptions and his argument.

Nature, said Mr. C., has bestowed her gifts very unequally and partially upon men; to some she has given one quality, and to others another. She has certainly been profuse of her gifts to the Senator from Missouri [Mr. BENTON,] in one particular: she has endowed him above all men with boldness—yes, boldness of assertion; but I must say with less profusion in the power of ratiocination. Yes, in the face of this confirmation of the estimate of the committee, by his own authority, he has ventured to assail the correctness of the report in the most unqualified manner, and bellowing out that the estimate was extravagant—a fallacy—hallucination!

He has, said Mr. C., not thought proper to repeat these offensive epithets in his speech which he has just delivered; but in lieu of them he tells us that the report is deceptive—fallacious; and that while pretending to moderation but thinly veiled, it partakes of the most bitter party character; and in the same breath with which he makes these charges, he alleges, as a serious charge against the committee, that they did not go into an inquiry of the cause of the enormous increase of patronage and expenditure, which the Senator cannot deny. I repel, said Mr. C., the charges of the Senator, as destitute of any foundation, and affirm that the report is as free from party spirit as it is possible for a paper of this description to be, consistently with truth and a regard to duty. The Senate charged the committee in its resolution to inquire into the extent of executive patronage, its great increase of late, and the expediency and practicability of reducing it; and how could the committee

perform this duty without speaking freely of facts as they exist? How could they inform the people of these States of the extent of executive patronage and the cause of its great increase of late, if we had said less than we have? The truth is, the committee looked to the facts, and to the facts only; and treated of them as much as possible separate from all personal or party considerations; and yet the Senator from Missouri, while he charges the committee with giving a party character to the report, with a strange inconsistency and confusion of ideas, blames them for not inquiring into the fact of who were the authors of the present extravagant expenditure and enormous patronage, which he does not pretend to deny. Can the Senator be so blind as not to see that it was impossible to discuss that point without giving a violent party character to the report, which would have ended in preventing the possibility of applying a remedy to what all (and he with others) admit to be a deep and dangerous disease? I must tell the Senator, what as a member he ought to know, that the committee was actuated by far higher and more patriotic considerations. They were more studious of devising a remedy to arrest the dangerous progress of events than of giving a party character to their proceedings, which, however it might bear upon those in power, could not but defeat the object which the Senate had in view in instituting the inquiry. This is the reason why the committee did not inquire who were the authors of the present state of things. They were not deterred, as the Senator seems to insinuate, by the apprehension that the inquiry would implicate others as the authors of the present diseased condition of the country, and exempt the administration. The result of such an inquiry, so far from acquitting, would deeply implicate the administration in all the extravagant expenditures to which the Senator alludes--internal improvement, pensions, removal of the Indians, and those connected with the tariff—as I am prepared to show, whenever a suitable opportunity offers. But before I quit this part of the subject, let me correct an error into which it would seem strange that the Senator should have fallen. He tells us, with his usual confidence, that Andrew Jackson was the author of the plan of removing the Indians to the west of the Mississippi, and bestows upon him all the honor and the glory, and calls upon the State of Mississippi and the new States to pay the debt of gratitude which they owe him as the author of this noble policy. Is it possible that the Senator could have been ignorant that it was Thomas Jefferson, and not the object of his adoration, who was the real author? Can he be ignorant that Andrew Jackson himself, (as he calls the President,) in the treaty with the Cherokees, in 1817, acknowledges this fact, if my memory serves me. To come to a later period, is he ignorant that Mr. Monroe recommended in one of his messages, in the fullest and most explicit manner, the adoption of the policy of the removal of all the Indian tribes within our limits, on the east of the Mississippi, to the west of that river; and that the message of Mr. Monroe was founded on a report of which I was the author, as Secretary of War? How, with all these facts before him, could the Senator pronounce, as he has, that the present President was the author of the system, and as such bestow upon him exclusively whatever honor and gratitude may belong to it? Let me tell the Senator, that he who undertakes to correct the errors of others ought to be very cautious of committing errors himself.

But it seems that the committee has committed an enormous error in the statement of the expenditure which they have given for the ten years from 1823 to 1833. The Senator says that they have entirely overlooked the extraordinary expenditure for the last of these years. A very simple answer will set him right. The object of the committee, as the statement itself on its face purports to be, is to exhibit the amount of the expenditures simply for the period in question, without inquiring into their nature and character, or for what reason or objects they were incurred, with a view of showing that there was a regular progression and great increase of the expenditure of late. The statement is taken from the official return of the expenditure during the ten years; and in addition to which the report gives the estimated expenditure for 1834, and the annual report of the Secretary of the Treasury gives the estimate of the expenditure of the current year; so that the committee could have had no object in selecting 1833 with a view of exhibiting the increase to be greater than it really is. It was selected simply because it is the last year of which we have official and certain returns of the expenditure—those of 1834 and 1835 being as yet in some degree uncertain and conjectural. Now, said Mr. C., if the expenditure of 1833 gives so unfair a result; if, as the Senator contends, it was swelled so enormously by accidental circumstances, that seven million ought to be deducted to obtain the true result, what will he say to the estimated expenditures of 1834 and 1835, which are but little short of twenty millions of dollars for each year? Will he pretend to say that any extraordinary occurrences affected the disbursements of the last year, or that those of the present, as estimated by the Secretary, were not based on the usual items of expenditure? Let us then lay aside the year 1833, to which the Senator so strenuously objects, as being a year of extraordinary disbursements, and take that of the last or present year, the expenditure of which, as I have stated, is estimated at nearly twenty millions of dollars, and how much will the Senator gain by comparing either of those years with 1823 instead of 1833, to which he objects. He will find on comparison that the expenditure of 1823, compared to the estimates of this and the last year, is less than one half; and how will he, who in 1826 condemned the comparatively moderate expenditure of that period, undertake now to justify this enormous increase since? an increase which has occurred mainly under this reform administration, of which the Senator is one of the warmest and most unqualified supporters. But let us turn and examine the items of 1833, to which the Senator objects, as being improperly charged upon that year.

First, the Black Hawk war, to which he charges nine hundred thousand dollars. Now, sir, said Mr. C., if I am not greatly mistaken, it was charged on this floor by a gentleman, a friend of the administration, well acquainted with that petty contest, that it originated in the misconduct of the officers and agents of the Government, and might easily have been prevented if the complaints of the Indians had not been improperly neglected by those whose duty it was to attend to them. The Senator then tells us that there were extraordinary Indian treaties in that year, and large sums paid for the removal and subsistence of the Indians, which together amounted to more than one million of dollars. I cannot, said Mr. C., admit this deduction. Of the present extravagant and unreasonable disbursements, there is no portion more so than those for holding Indian treaties, purchasing Indian lands, and removing Indians, which exceed manifold what has heretofore been usual; and I firmly believe have been the subject of as much, if not more, abuse and corruption than the Post Office Department.

The Senator next deducts the expenditure under the pension act of 1832, which he denominates loose and wild, but he takes care to charge it to the credit of Congress. I will not, said Mr. C., permit the Senator to shift the responsibility from the shoulders of the administration. It is not to be tolerated that those who

expelled a former administration because of its extravagance, shall now, when the administration thus brought into power proves to be doubly so, lay the blame upon Congress instead of taking it to themselves. I would ask the Senator, when he drew his report in 1826, and denounced the then administration in such severe and unqualified terms for their extravagance, whether every item of expenditure at that time had not been authorized by Congress? and with what semblance of justice could he then transfer the blame from Congress to the administration, and now, under precisely similar circumstances, from the administration to Congress? He and those who are now in power have reaped the fruit, and they obtained power by holding others responsible; so it is just that they should, in turn, be held responsible. I go farther. I maintain as a sound rule that every administration, unless they be in a minority in both Houses, ought, upon every principle of justice and policy, to be held responsible; and that it is one of the striking evidences of the diseased and corrupt state at the present time, that such is not the fact. Has not the present administration had at all times a majority in either this or the other house; and has not the President freely exercised his veto whenever any party object was to be effected? Why then has this appropriation, which the Senator designates as so extravagant and improper, been permitted to pass? Why was it not defeated in the House of Representatives, where the administration had a settled majority, or arrested by the President's veto? I will answer these questions. It is because the administration has not thought proper to make either this or any other question of principle or policy a party question. A member may vote on any question of the kind for or against, and be still a good Jackson man. He may be for or against internal improvement—for or against the tariff—for or against this or that expenditure—for or against the bank, without forfeiting his party character, provided always, and nevertheless, he shall submit to party discipline and sustain the party candidates for office. This is the only cohesive principle; this is the only subject deemed of sufficient importance to be raised into the dignity of a party question. All others, however important in themselves; however sacred the principle involved; however essential the measure to the public prosperity, are all it seems too insignificant to be made party questions. They are all left open questions, in reference to which the faithful may take either side. Yes, even the bank itself is not a party question, of which we have a most striking illustration in the fact that General Jackson bestowed the highest gift in his power on a Senator (Mr. Forsyth) who had openly, on this floor, in the very heat of the controversy, avowed himself a bank man, while other Senators who were openly opposed to the institution were denounced; thus furnishing a most striking illustration of the truth of what I have asserted, that the only cohesive principle which binds together the powerful party rallied under the name of General Jackson, is official patronage. Their object is to get and to hold office; and their leading political maxim, openly avowed on this floor by one of the former Senators from New York, now Governor of that State, (Mr. Marcy,) is that "to the conquerors belong the spoils of victory!" a sentiment recently reiterated during the present session, as I understand, by an influential member in the other House, and who had the assurance to declare every man a hypocrite who does not avow it. Can any one who will duly reflect on these things venture to say that all is sound, and that our Government is not undergoing a great and fatal change? Let us not deceive ourselves—the very essence of a free Government consists in considering offices as public trusts, bestowed for the good of the country, and not for the benefit of an individual or a party; and that system of political morals which regards offices in a different light, as public prizes to be won by combatants most skilled in all the arts and corruption of political tactics, and to be used and enjoyed as their proper spoils, strikes a fatal blow at the very vitals of free institutions.

Mr. C. said, experience has shown that there is a great tendency in our system to degenerate into this diseased state; and I will venture to repeat (it cannot be done too often) what is stated in the report, that, whenever the executive patronage shall become sufficiently strong to form a party based on its influence exclusively, the liberty of the country, should that state of things continue for any considerable period, must be lost. We would make a great mistake were we to suppose, because the Government of Great Britain can maintain its freedom under an immense patronage, that ours also can. The genius of the two Governments in this particular is wholly dissimilar; so much so as to form a perfect contrast. It is the feature by which they are most distinguished. No free Government that ever existed could maintain its liberty under so much patronage as that of Great Britain; and there are few that could not bear more than this Government. But, said Mr. C., it is a great subject, which I cannot enter upon on the present occasion. I return to the objection which the Senator made to the statement of the expenditure of the year 1833. I could not be ignorant, said Mr. C., in making a movement against executive patronage, that I would bring down upon me the vengeance of that great and powerful corps now held together by this single cohesive principle—a principle as flexible as India rubber, and as tough too. The history of the world proves that he who attempts reformation, attempts it at no small hazard. I know the relation which the Senator bears to the dominant party. He is identified with them, [here Mr. BENTON said, Mrs. Royall says so: to which Mr. C. replied, she says truly; and proceeded,] and is their organ on the present occassion. His position compels him to adopt the course he has pursued.

There remains, then, only two items of the seven millions to be deducted: certain refunded duties and the payment under the Danish convention, amounting to less than one million and a half, which, if they were paid during the year, may be deducted as of an extraordinary nature, and for which the administration is not responsible; and thus the seven millions of the Senator dwindles down to about one fifth of the amount, and the expenditure of the year, after being freed of all the items of which it can justly be, will give an increase of expenditure in the year 1833, over that of 1822, of $11,429,750.

When the report asserted (said Mr. C.) that the period from 1823 to 1833, was one of profound peace, to which the Senator so violently objects, the committee were not ignorant of the disturbance with Black Hawk and his followers, on our northwest frontier, which the Senator has attempted to dignify by calling it a war. If my memory serves me, it was limited to a single tribe, headed by a single chief, and did not extend to the nation to which he belonged, and lasted but a few months; and it is vain for the Senator from Missouri to impeach the correctness of the report, which asserts the period to be one of profound peace, by calling to our recollection this paltry affair, which originated in the misconduct of the administration, and has swelled into the little magnitude which it attained by its mismanagement. The Senator from Missouri endeavors to escape from the inconsistency in which he is placed by his report in 1826 and his present position. He says that I was mistaken in placing his defence of General Jackson's removals from office on political grounds, on the principle of retaliation; that it was not on that principle, but that of equalizing the offices between the parties. I

(said Mr. C.) have not the sagacity to perceive the difference, as applied to the present case, or by what possibility the Senator can escape from the inconsistency in which he is involved, by substituting the one for the other. What are the facts? In 1826, as chairman of the select committee on executive patronage, he made a report in which he condemned the principle of removal from office in the severest terms—more severe than those used in the present report. He traced its destructive tendency to the great increase which it was calculated to give to executive patronage, and pronounced the exercise of the power by the President to be unconstitutional; and now, when the present administration has carried the exercise of this very power, thus condemned by the Senator, more than thirty fold beyond any or all preceding administrations, the Senator ventures to rest his vindication of the administration, and his support of it, on the ground of equalization. Equalization! What allusion, what exception did the Senator make in favor of equalization in his report? and how can equalization any more than retaliation justify a violation of the constitution?

Mr. C. said, I regret that I have been forced to the discussion of these topics on the present bill, in reference to which the committee is unanimous; but the extraordinary course of the Senator from Missouri, in his bold and unfounded charges, and unwarranted imputations, compels me to adopt the course which I have. I now hope that the bill may be allowed to proceed, and that further discussion on the merits of the report will be postponed to some future and more suitable occasion.

When Mr. CALHOUN had concluded,

After some remarks from Mr. CUTHBERT,

The Senate adjourned, at about half-past five o'clock.

SATURDAY, FEBRUARY 14.

A message was received from the President of the United States, by Mr. Donelson, his Secretary, by which the Senate was informed that the act for the relief of Benedict Alford and Robert Brush, although signed and certified by the proper officers of the House of Representatives as having passed, had not in fact become a law when it was presented to the President for his approval.

The message was referred to the Committee on the Judiciary.

POLISH EXILES.

On motion of Mr. POINDEXTER, the bill to amend the act of last session, which was reported last session by the Committee on Public Lands, making a grant of land to certain exiles from Poland, was taken up.

Mr. POINDEXTER said that these exiles were in an unfortunate condition, and if the bill was not taken up now, it might probably not be of use to them.

The bill being read,

Mr. POINDEXTER said that the first section of the bill, as reported last session, by which was made to these exiles a grant of land, required the actual habitation and cultivation of the land. The House had amended the bill, and made it imperative to make ten years' residence. This made the condition on which the land was given worse than to a common purchaser. He proposed to make it, what it ought to be, a generous gift. The people were poor, and, consequently, unable to buy implements of husbandry. He proposed to move an amendment to the bill, which should enable them to mortgage their land for the purchase of tools. Every year their condition would improve, and at the end of ten years they would be comfortably settled.

Mr. KING, of Alabama, felt a difficulty in opposing the bill, but the Senate should take care not to encourage a hungry class of speculators. There had been already some experience on this subject. A number of military men, who were exiled from France, had a grant of a township of land made to them, under certain conditions, and that grant was the occasion of more trouble and of more fraudulent speculations than most men would have anticipated. Let it be a donation to them; and when the land is given, let them keep it. If they were to mortgage their land they might never go there. Their mortgage would be perfect, and they might never redeem it. In the case of the French emigrants, Congress had to give up the land, and let them take it at the usual price. If the Senator were to look at the bill with his usual attention, he would find it to be a bill that would do them no good, and be the means of throwing the land into the hands of speculators. If the Senate would allow it to lie on the table for a day or two, it might be duly considered.

Mr. POINDEXTER assented to the proposition, and the bill was accordingly laid on the table.

ROBERT JOUETT.

The bill for the relief of the legal representatives of Lieutenant Robert Jouett, late of the Virginia line, deceased, was taken up and considered as in Committee of the Whole; when

Mr. HILL moved to amend the bill by inserting a provision that it must first be ascertained at the Treasury Department that the said Jouett is entitled to commutation under a law of Congress.

After a debate, in which the amendment was supported, and the claim provided for in the bill opposed by Mr. HILL, and in which the claim was explained and advocated by Mr. LEIGH,

Mr. HILL called for the yeas and nays on the question; which having been ordered, the amendment was rejected: Yeas 3, nays 35, as follows:

YEAS—Messrs. Hill, Tallmadge, Wright—3.

NAYS—Messrs. Bell, Bibb, Black, Brown, Clay, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Kane, Kent, King of Alabama, Knight, Leigh, Linn, Mangum, Moore, Morris, Naudain, Poindexter, Prentiss, Preston, Robbins, Shepley, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Tyler, Webster, White—35.

The bill was then ordered to be engrossed for a third reading, without a division.

EXECUTIVE PATRONAGE.

The Senate proceeded to the special order, being the bill to repeal the act to fix the number and compensation of certain officers.

Mr. EWING said he considered this bill as of great political importance, especially that section which limits the power of the Executive in removals from office, and requiring him to give an account of his acts, and the reasons for those acts, to this body. I need not say that I approve, most heartily approve, (said Mr. E.,) of this provision, the first measure which I had the honor to propose in the Senate was of this import, though it went farther; and I have more than once on this floor expressed my views on the question; but I cannot let this occasion pass, nor any other in which the same great subject shall be agitated while I have the honor of a seat on this floor, without declaring, before this body and the American people, my firm and solemn conviction of what the constitution is, and what the safety of our Republic requires that the law and the practice should be, on the subject of removals from office. This bill brings up that question; for if the President have, by the constitution, the power of removal from office, without the concurrence of the Senate, then is the second sec-

tion of this bill a violation of that constitution, and a usurpation of executive power. If he have not that right by the constitution, we have the power to pass this bill, and the public good requires that we should exercise it. I shall confine myself to a discussion of the constitutional power, and, as time is precious, I will endeavor to be brief.

The first proposition which I shall attempt to establish is, that the constitution does not vest in the President alone the power of permanently removing any officer who is appointed by the President, by and with the advice and consent of the Senate.

In the second article, first section, of the constitution, it is declared that "The executive power shall be vested in a President of the United States of America." By the second section, "That he shall nominate, and, by and with the advice and consent of the Senate, appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law." And by the third section, "He shall take care that the laws be faithfully executed." These are all the provisions of the constitution from which a grant of the power of removal to the President alone is claimed, either expressly or by implication, as a power necessary to carry into effect some granted powers.

It is mainly the grant of executive power in the first section, and the directions in the third, that he shall take care that the laws be faithfully executed, on which gentlemen who contend for this prerogative in its full extent rest its claims. It is important, therefore, that each of these provisions should receive a strict and careful examination.

Our Government is one of compact; all the powers granted to its several departments are to be found in the constitution, which is the registry of that compact. Those powers, or a general outline of them, are first struck out in a general expression in that instrument, and are afterwards more particularly defined and fixed by special enumeration. And those who incline to a latitudinous or loose construction of the constitution, err in this: that they take the general expressions in an indefinable extent, fixing to them such meaning as may suit the occasion or feelings of the moment, without regard to the special enumeration of powers, which is, on every principle of sound construction, a limitation to the extent of such enumeration, and an exclusion of all beyond it.

But even that mode of construction would, in this instance, fail those who hold that this claim of high executive power is sustained by the constitution. "The executive power shall be vested in a President of the United States." Take this expression in its general terms as here used—the most general possible—unrestrained by any prior or subsequent clause, does it necessarily involve in itself the power of appointment to, and removal from, office? Before this supposition is made the basis of an argument, it requires full and conclusive proof that it does so, and that such was its known and accepted sense, at the time of framing the constitution. For myself I think that, so far from this being a demonstrable fact, the evidence, external and internal, that the very reverse was true, is as strong as it is possible to adduce of a negative proposition. But it should not be forgotten that on those who base a latitudinous construction of the constitution upon a general and somewhat indefinite phrase, it devolves to show that the general phrase on which they rest, is coextensive with the power claimed.

But what is this power called executive? Monsieur Necker, a decided monarchist, and therefore sufficiently inclined to attribute to executive power all that is inherent in it, says "that it represents in the political system that mysterious principle which in moral man unites action to the will." It does not seem, in the opinion of this writer, to have represented also the power of creating the instruments with which this action was to be performed. The will (to which the legislative power may be assimilated) determines on some act—the limbs, by the intervention of this "mysterious (executive) principle," move to its performance; but this principle of action cannot create or destroy those executory organs over which it presides, and the movements of which it directs, actuates, or restrains. This illustration, not very apposite in itself, does, nevertheless, show the views of a writer, contemporaneous with the constitution of the United States, of the application of the general term executive power to the subject under consideration. In another place, speaking of the wild views of the framers of the French constitution of 1790, the same author says, "They treated this power (the executive) as if it had been a supernatural pre-existing faculty," and complains that they created an executive without conferring on it a participation in the appointment to offices, and some other patronage necessary to sustain his dignity and independence. Hence it would seem that, in the opinion of this writer, the executive power did not of itself, *ex vi termini*, involve the power of appointment to, or removal from, office.

I will next, sir, take leave to refer to a writer, (Ackerly on the British constitution,) whose work was published about the middle of the eighteenth century. The author supposes a convention assembled to fix by mutual consent the constitution of the monarchy, and Brittannus, a leading member, propounded "That the intended King, as the head, should have the whole executive power of the laws, and to take care of the administration of justice, and that he should neither deny, delay, nor sell justice to any man. He further proposed that the intended King should have the sole appointment and nomination of all his judges, ministers of state, his admirals, generals, and all other officers in the Government, both civil and military, to be taken and chosen out of the best and most meritorious of his people."

Now it is perfectly apparent, from the two consecutive sentences above quoted, that the author did not consider the grant of executive power, accompanied with the charge that he enforce the laws, as involving a grant of the powers of appointment to office. The turn of language connecting the second section with the first, "he further proposed," carries with it the idea of an additional proposition, a further grant of power, not the mere enumeration of powers already granted. Had the previous grant of the whole executive power been supposed to carry with it the power of appointment to office, and had the author thought fit to enumerate these imputed or appended powers, he would have used other language appropriate to convey that idea; the expressions used forbid the supposition.

These authorities would seem to me strong enough, of themselves, to repel an assumption wholly unsupported by any proof: but when we come nearer home, and examine the then existing constitutions of the several States, whose systems must have been present to the minds of those who framed this constitution, it will be found that but few of them vested the power of appointment in their Governor, and not one of them the power of removal. In the memorable debate of 1789, on "the bill establishing an Executive Department, to be denominated the Department of State," to which I shall by and by more particularly refer, Mr. Madison contends that the appointing and removing power are in their nature executive; that the simple grant of the executive power to the President carried with it the power of appointment and removal, except in so much as they are re-

strained by other provisions of the constitution. Mr. Smith, of South Carolina, denies that the power of removal is executive in its nature. "I have (says he) turned over the constitutions of the States, and do not find that any of them have granted this power to the Governor." Mr. Gerry, also, in reply to the same argument, says, "Now I would be glad to know from that gentleman by what means we are to decide this question. Is this maxim supported by precedents drawn from the practice of the individual States?" "The direct contrary is established"—and in the course of this debate this point is not again pressed by Mr. Madison, nor does he refer to any authority or adduce any argument to prove that the power of appointment or removal is an essential element of executive power, or that it is granted by the simple words granting that power. All authority being against this position, it will not do to assume it, and rest an argument on the assumption.

If, sir, we look into the constitution itself, with a view to the opinion of its framers, we shall find them, so far as language can indicate, in strict accordance with the authorities above cited. The executive power is granted by the first section of the second article. Had that grant carried with it all other powers now supposed to be in their nature executive, the words which follow that grant would have been words of restriction instead of enumeration. Instead of saying that the President should possess certain enumerated powers, in their nature, as it is said, executive, that instrument would have restrained him in terms from exercising any powers except such as were intended to be conferred on him. Or, on the other hand, if we consider those as specific grants of powers in their nature executive, and which were already sufficiently implied in the grant of executive power, still the enumeration, full and large as this is, in its very nature excludes every thing which is not expressed.

The appointing power is, by the constitution, vested in the President and Senate; the President has the sole power of nomination; but, in appointing, the power of the Senate is equal and co-ordinate. This position has been subject to cavil, but one consideration appears to me decisive of the question. The words of the constitution are these: "The President shall nominate, and, by and with the advice and consent of the Senate, appoint." This is precisely the language used in the enacting clause in the British statutes, which language must have been perfectly familiar to those who framed the constitution. "Be it enacted by the King's most excellent majesty, by and with the advice and consent of his lords spiritual, &c. &c. in Parliament assembled." If the very language were not purposely adopted, at least its analogy could not have escaped the observation of the framers of the constitution; they knew that the advice and consent of the lords and commons of England was a full participation with the King in the acts of legislation, and they intended by the use of the same familiar phrase to place in the Senate a like participation in the appointing power, and to plant them as a safeguard against executive influence. It were idle to say that it was the intention of the framers of the constitution to confine the Senate to a consideration of some particular matters personal to the nominee. If it were not intended that the Senate should be the mere registers of the decrees of the executive, their powers, and rights, and duty, in this particular function, are equivalent to his. It has never been contended in England, I believe, not in the seasons of the most abject submission of the Parliament to the Crown, that Parliament had not an equal participation with the King in enacting their laws; and when our convention adopted like language, it is reasonable to suppose they intended to grant like powers and impose like duties.

The appointing power, then, being expressly vested elsewhere than in the President, would it not follow that the removing power, which seems, in its nature, to attach itself to, and form a branch of, the appointing power, should pass with it to the same department (whether simple or complex) of the Government? If, for example, the appointing power were vested in the Senate alone, without the participation of the President, would it be contended that the President, by virtue of his executive power, could still remove? Surely not. And yet the cases are identical. He can no more acquire the right by virtue of that power, and his participation in the appointments, than he could without such participation.

But, again: it is provided by that clause of the constitution which especially enumerates his powers, that "he shall have power to fill up all vacancies that may happen during the recess of the Senate." He may fill up all vacancies that "happen;" but can it be for a moment contended that he has a right thereby to *make* for the purpose of *filling* vacancies? The very expression used is the most forcible in our language to denote casualty, in creating the vacancy, as the basis of the power to fill it, which, construed in its most limited sense, must mean at least a state of things not brought about by the direct act of the officer who holds this power by such contingency.

The framers of our constitution wisely blended, in some important particulars, the powers of the executive and legislative branches, making them in some measure dependent upon each other; and the welfare of our country depend upon the just and harmonious action of the whole. The legislative department cannot perform its sole and only appropriate function, the enactment of a law, without the concurrent action of the Executive. The Executive cannot declare war without the concurrence of the legislative power. He cannot conclude a treaty, or appoint any officer, without the concurrence of the Senate. An exact discrimination of those powers which seem executive in their nature, and their distinct allotment to a separate department, to be wielded without check, seems not to have been within the view of the framers of the constitution. Indeed they guarded, as far as human prudence could guard against them; aware that this power, if it were left unchecked, and if it should fall into the hands of an unprincipled and ambitious President, would draw to itself and swallow up all the other powers of the Government. Those who contend that there should be in a free Government an exact partition of powers, executive, legislative, and judicial, and that those powers, so secured, should be vested in distinct departments, appear to me to fall into a very great, though a very natural, error. If we had a safe guarantee for the permanence of institutions based upon and carried out strictly upon that principle of partition, it would then be well; but it is not in the nature of things that there should be equal power of self-preservation in those several functions of government; and if there be not, and if they be divided by exact partition among several co-ordinate branches, the functionary that wields the stronger power may, and in the very nature of things will, encroach upon the rest, until they are gradually swallowed up and absorbed by the master principle. For example: if the whole executive power be vested in the President of the United States, and if that power be as extensive as gentlemen contend it is, all the other powers of Government could not for a single year withstand it. Grant, for example, what has been already claimed by the present Chief Magistrate, that the Executive has a right to determine for himself what laws are constitutional, and ought to be enforced; that he has also the right of construing for himself such laws as he considers constitutional; and that he has the right of determining what decisions of the courts are consistent with the constitu-

tion and laws, and ought to be carried into effect, and what ought, for the opposite reason, to be disregarded, and it will be seen at once that he has the whole power, executive, legislative, and judicial, in his own hands, which union constitutes nothing less than despotism. The framers of our constitution, therefore, did wisely to blend those powers, and we ought not to struggle against that principle of the constitution, and still further to separate them. Thus they have vested in the Congress of the United States, a participation in some of the executive powers—as that of war and peace. It has vested in the President some of the legislative powers—as that of a negative on all laws; and it has vested in the Senate a full participation in the legislative power, a portion of the executive, and a portion of the judicial.

It is not true, then, as a principle of our Government, that its several powers, legislative, executive, and judicial, should be accurately defined and separated by exact lines of demarcation. Hence, all the reasoning that is based on that assumption falls to the ground. Let those who entertain the opinion that the framers of the constitution intended that all powers, supposed to be in their nature executive, should vest in the Chief Magistrate, unless they be placed elsewhere by express provision. Let them give the constitution the same construction in favor of the legislative power, and test the rights of each branch of the Government on the same principle. The law-making power is the appropriate function of the legislative branches, and all the legislative power is, by general words, vested in "a Congress of the United Ssates." But by a subsequent clause all laws are ineffectual until sanctioned by the President, unless, &c. Here the enacting power is fully provided for, and its limits assigned, but no repealing power seems to have been thought of. Who shall repeal a law? It is as entirely a branch of legislative power as the enactment, and if the reasoning of these gentlemen be correct, it is a *casus omissus*, and necessarily attaches to the legislative, the appropriate branch of the Government. But this is all idle. It requires the same power to repeal that it does to enact, unless those powers are expressly reserved; and the form of expression used in a repeal is of itself the form of an enactment. So the President has power to propose an officer, in like manner, as Congress has power to propose laws. But he cannot appoint without the concurrence of the Senate, any more than Congress can pass laws without him. Can he repeal an appointment which he could not make? If he can, simply because it is of the nature of executive power, why, I ask, may not Congress repeal a law, because such repeal is of the nature of legislative power? Beside, sir, the mode of removal, as adopted, is precisely analogous to that used in the repeal of a law. It is by nominating another officer to fill the vacancy occasioned by the removal, when the nomination itself is the only existing record of removal, except, perhaps, in the case of a military officer, when he is stricken from the roll.

Suppose the power of removal perfect in the President, must there not be some fixed and definite mode by which it is to be effected? Would it be consistent with a Government of laws, or, indeed, with any other but that of a despotic Power, to place the individual officers of the Government so completely in the hands of the Executive that they would be, or cease to be, at his mere volition, without that will being reduced to a definite or tangible expression?

But, suppose it is holden necessary, in order to perfect a removal, that the President advise the officer that he has no further need of his services, does this fact of a removal appear in any way in which the public can take cognizance of the action? It would still rest with the removing power and the officer removed, and there might be a reinstatement, equivalent to a reappointment, without the action of the co-ordinate power, the Senate. But suppose the removal to be effected by commissioning another officer in the recess to supersede the officer to be removed; suppose the removed officer restored to favor, and reinstated by the President, would it be necessary to present this restored officer to the Senate for confirmation. In theory, you may say it would; necessarily it would, if the power of removal in the President be perfect. But how could we bring the matter to the question, and exert our right of pronouncing upon the appointment? The removed officer is restored to the exercise of his office, and is recognised by the Executive. He holds a commission by and with the advice and consent of the Senate; and though another individual may have held a temporary commission inconsistent with his, yet it is not a commission under, or by authority of, this body. We know nothing of it, and have nothing to do with it; the power which created that, its sole and whole creating power, may be well claimed to have the power of destroying it; and it might be likened to the repeal of a law, repealing a former law, which revives the first law; thus it might be holden that the revocation of a commission, revoking a former commission, might set up the first; at any rate, if it were the will of the Executive that it should be so, how vain would it be to urge any thing against it. Or, suppose another state of facts very closely analogous—suppose, during the session of the Senate, the President should nominate a person to fill the place of an officer removed, (and this, in practice, is the only mode of effecting a removal, before such nomination is acted upon,) the President thinks fit to withdraw it, and leaves the incumbent in the exercise of his duties, has there been a removal? Is a renomination of the incumbent necessary, and a new commission, before he is again an officer? This is an important inquiry, going full to the merits of the question that I am now discussing.

Here are some ingredients to perfect the act which did not exist in the other cases just put, here is, at least, record evidence existing before this body of the expressed will of the President, and of the removal being effected, so far as the exertion of that will could effect it. But is the officer in fact removed? It appears to me not; and I am told that such is the opinion of the Executive, supported by the opinion of his legal adviser, the Attorney General. I entirely concur in this opinion; the state of facts had occurred to me as possible before it was presented as a reality, and I was led by my own reason to give it the solution which I am informed it has received from that high legal functionary. But let us follow this out to its consequences. It will be seen at once that the removal is not perfect, or, in other words, permanent, until it receives the sanction of the Senate, directly or indirectly. The confirmation of a nominee to fill the same identical office is clearly an indirect, if not a direct recognition of the existence of the vacancy and consequent sanction of the removal; and, until this is done, it seems to be conceded that the removal is not complete. Must not the Senate, then, when their act removes an individual from a public trust, when they are the active instruments, not the passive spectators of his degradation, should they not, as conscientious men, in the discharge of a high trust, affecting both individual character and the public welfare, act upon their own responsibility, and be governed by the dictates of their own judgment? What an idle pageant would this body be, what a solemn farce its advisory power over these acts of the Executive, if the views of some honorable Senators should be followed, and the Senate should be confined in their inquiry simply to the qualifications of the proposed successor.

It appears to me clear, Mr. President, that the constitution does not confer on the President alone the power

of removal, that it is a mere matter of legislative provision, subject to be vested, modified, changed, or taken away by the Legislature at their will; and, if it is not regulated at all by law, it vests in the President and Senate as a part of the appointing power.

Mr. KANE said he did not rise to enter into the debate, nor to discuss the particular question relative to the organization of the Government, which had already been decided, and the decision of which had been acquiesced in for half a century. That question he would not discuss then, unless fairly brought up. Among his objections to the bill was, not that it proposed to take away any power from the Executive, but because, with the admission of a distinct power on the face of the bill, it proposes that the Executive should lay before the Senate the reasons for its exercise, when he chose to exercise it. It was distinctly admitted in the bill that the Executive possessed a specific power, and that it required him to lay before the Senate his reasons before he exercised it. What would you do, asked Mr. K., with these reasons when you got them? Would the Senate do as it did when it got from the Secretary of the Treasury his reasons for the removal of the public deposites? The bill, he repeated, admitted that the President possessed the power of removal from office, and yet, by some undefined process, it was proposed to make him responsible to the Senate for its exercise. The first section of the bill provided for the alteration of the tenure of office, as held heretofore for a limited time, and made the tenure of office dependent on the will of the Executive, requiring of him to assign his reasons to the Senate before he makes a removal. The third section (said Mr. K.) provides, "That in all nominations made by the President to the Senate, to fill vacancies occasioned by the exercise of the President's power to remove the said officers mentioned in the second section of this act, the fact of the removal shall be stated to the Senate, at the same time that the nomination is made, with a statement of the reasons for which such officer may have been removed."

Now, Mr. K. did not intend to discuss that question. With the admission of certain executive powers in the bill, it proposed to make the President responsible to the Senate, and required him to give his reasons before he exercised them. Then, he asked, what would the Senate do with those reasons when they got them. It was an idle provision in the bill to say that the President should give his reasons to the Senate for the exercise of a power which it was admitted he possessed. He could see much more propriety in requiring of the President to give his reasons for the exercise of his constitutional powers to the people of the United States, but he did not see any propriety in requiring him to give such reasons to the Senate. For these reasons he would vote against the bill.

Mr. BIBB rose to state, in a very few words, his reasons for supporting this bill. It was well known that he was one of those who did not deny that the President possessed the power of removal from office. He had expressed the opinion that the President did possess this power, and that opinion he still retained. But while he believed that the power of removal from office was vested in the President of the United States, he still believed that the power to regulate removals rested with the Congress of the United States. The constitution said that the executive power should be vested in a President of the United States; but, as this much only would be vague and indefinite, it goes on to say what those powers are—to express, in precise terms, the powers that shall be given to the President. By this enumeration, it excludes at once the idea that, without such enumeration, the President would, in virtue of his office, have possessed all executive powers; for, if such were the case, the constitution, as was remarked by the Senator from Ohio, [Mr. EWING,] would be very deficient in what a constitution should be for a well-regulated Government. Let it be recollected that this was not intended to be a constitution of unlimited powers, but that the powers granted by it, both legislative and executive, were express and limited; for it declared that all powers not granted by it should be withheld. The idea that the Executive possessed powers in virtue of his office, had led to continual assumptions of power on the one hand, while it was resisted on the other, and the fluctuations of executive power had generally ended in new encroachments. This enumeration of executive power, before alluded to, was intended by the framers of the constitution as a security against executive encroachments; and for this purpose it was defined as strictly and as precisely as the nature of language would permit; but, define and define as you may, you cannot so mark executive powers as to be the same to all minds; your definition cannot be made with that mathematical precision as to be beyond doubt or misconception, and therefore the nature of executive powers will be viewed differently by different eyes.

What were the powers granted by the constitution to the executive and to the legislative branches of the Government? To the Executive was given the power, by and with the advice and consent of the Senate, to make treaties; to appoint ambassadors and other public ministers and consuls, judges of the Supreme Court, and other officers. He had also the power to appoint to vacancies happening in the recess of the Senate, such appointments expiring at the end of the next session of Congress. At the end of the third section, the Executive was empowered to take care that the laws shall be faithfully executed; and he was further empowered to commission all the officers of the United States. He next came to consider the legislative powers of Congress, and here he would call the attention of the Senate to the first article of the constitution: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." And, after enumerating the various powers of Congress, the constitution went on to say that it should have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." Here was an express grant of power to Congress to make all laws necessary and proper for carrying into execution all the powers vested in the Government, or in any department or officer thereof.

From this clause it was very evident that the power to regulate the exercise of powers granted by the constitution was vested in Congress itself, and not left to executive discretion. Specific powers were granted to the Executive and to Congress, but it was provided that Congress should regulate the exercise of all those powers, from time to time, and make such laws as might be necessary and proper for carrying them into execution. This was not a Government of arbitrary or of kingly powers, such as are established over Europe, but a Government formed on a new plan, derived from the people; and this constitution was laid down as the landmarks by which the agents of the people were to be guided, and by which their rights and their liberties were to be preserved. The constitution provided that Congress should "make all laws necessary and proper for carrying into execution all powers vested by it in the Government of the United States, or in any department or officer thereof." Now, did not this clause refer to the carrying into execution the power of appointment and removal from office? For surely the words "department, or officer

thereof," applied as well to the President as to any other officer of the Government. There was an executive department, and the President was the officer of that department. There were a variety of departments of Government, and each had its appropriate officer or officers. If Congress could make all laws necessary and proper for carrying into execution all the powers vested in any department of the Government or officer thereof, it surely could make laws necessary and proper for carrying into execution the powers vested in the Executive, which was a department or office of the Government.

The prerogative of the Kings of England did as expressly vest the executive power of that Government in its King, as the constitution vested our executive powers in a President; but did any man pretend that, because the executive power of England was vested in a King, it could not be regulated by law? Was it ever pretended by any whig or tory in the worst of times, that Parliament had not the power to regulate the actions of the King in the appointment of judges, and all other officers of the Government? In that celebrated revolution, so much spoken of by writers, there was an act of Parliament declaring that all judges should hold their offices during good behaviour, and should not be subject to removal from office at the will of the King, nor should their salaries be dependent on him. This historical fact must be remembered by every Senator. But again, it would be found that the power of appointment to office had been regulated by law in Great Britain, and by referring to Blackstone it would be seen that the causes were defined for which officers might be removed from office. Now, although the power of removal from office under this Government was no where expressly granted in the constitution, yet it seemed that it was to be worked out by implication; while, strange as it was, it was not to be regulated by Congress under the clause giving it the power to make laws for carrying into execution "the powers vested in the Government of the United States or in any department or officer thereof." If the power to remove from office be necessary to enable the Executive to carry on the Government, then the power to regulate that removal belonged to Congress. It would be going against the spirit of our fathers, who framed this constitution, to take away from Congress the power of regulating removals.

It had been objected by the Senator from Illinois [Mr. KANE] that this bill, whilst it conceded to the President the power to remove from office, at the same time attempted to require that he should state the causes of such removal to the Senate. Well, sir, (said Mr. B.,) I admit that the bill does not profess to take away the power of removal. The committee did not think it proper to interfere further than to provide that the President should state his reasons for the removals he might make. The gentleman had asked what the Senate would do with those reasons, when they got them. He would answer, that that matter was to be determined by the Senate. It was not for him to inquire into what subsequent Senates might do; it was sufficient for him that the single circumstance of requiring of the President to communicate to the Senate his reasons for the exercise of the power of removal would be a sufficient check against the abuse of that power. Was there no difference between suffering a man to act under a secret, hidden motive, governed by mere partiality or prejudice, and his acting for causes which he was bound to proclaim to the world? Was it not an important point to make the Executive examine and consider well the charges against a public officer, that he might take good care that the charges were well founded and of sufficient weight, before he removed him from office? The committee had endeavored to avoid any interference with the executive power; but, at the same time, to put such sufficient checks and balances on it as experience recommended, to prevent its abuse. At what time, he asked, had removals from office been made that did not produce some agitation in the public mind? He had not, however, at any time, intended to discuss this part of the question; he did not when he gave his consent to the bill in committee, nor had he at any time since, intended to go into it as a party measure. Look, said Mr. B., at the complexion of the committee. It was composed of the three different parties which divided the Senate. First, there was the party supporting the administration, who assumed to be the exclusive democrats; then there was the national republicans; and lastly, there was another party, to which he belonged, and which he was sorry to say did not meet with much favor now-a-days, denominating themselves the State-rights party, but who were stigmatized with the mad-dog name of nullifiers. Now, it happened that the committee consisted of two members from each of these three parties. No one party could do any thing in the committee without drawing aid from one of the others; yet there was a concurrence of the whole of the committee in the report and bills, with but one single exception, and that was with regard to the amendment to the constitution.

He mentioned this to show that the measure before the Senate was not a party movement, and that it was not introduced for the purpose of exciting that party spirit, too much of which was abroad. He solemnly declared that he had no desire, in any discussion he might engage in, to rouse any of those party feelings which prevailed outside of the Senate. He was too old a man to permit such feelings to enter his breast. He knew that there must, and that there always would be, different parties in this country, at times excited by high party feeling: for, as in the natural elements, the winds, waves, and billows, were necessary to purify the world, so the storms of party were necessary to purify the political world. He had been much of his life in a minority, while he always believed himself to be a republican; yet he knew that republics had been overthrown by those calling themselves republicans. Even under Mr. Jefferson's and Mr. Madison's administrations, he had been deemed rebellious. He would not then vote for a particular measure, and he was denounced; yet public opinion had since done him justice. It was only necessary that a free and candid discussion should go abroad, and those who paid the taxes and bore the burdens of the Government would come to a just conclusion.

He would not (Mr. B. said) farther occupy the time of the Senate. He was convinced, from the examination that he had given to the subject, that this bill contained necessary and proper provisions for the regulation of the executive department; that, whilst it took away none of those powers necessary for carrying on the Government, it placed them under such proper regulations as experience dictated. He forbore to go into detail. He left it to every Senator to form his own opinions as to the propriety of passing this bill. But, surely, if public calmness, public confidence, and public security, were at all desirable, it must be obvious that the provisions of a bill of the nature of the one before the Senate were necessary. In desiring the passage of this bill, he had only the welfare of his country at heart. He had no personal object in view. He had no ambition. For himself, he preferred to sit with his rod and line on the banks of a clear and pellucid stream, enjoying the pleasures of calmness and contemplation, to any objects that ambition could achieve.

Mr. SHEPLEY said: It is not my purpose, nor do I intend, to enter into an elaborate argument upon this bill; but I do intend to assign a reason or two why the bill, in my judgment, if it could be carried into effect,

would be productive of much mischief, and of no good. It proposes to repeal the law which limits the tenure of certain offices to four years; and to require the President, upon the removal of an officer, when he nominates a successor, to assign his reasons to the Senate for such removal. What, then, is to be the practical operation of the bill? It will prevent the termination of official life by the operation of law. When an individual obtains office, he will continue to hold it until deprived of it by death, unless the President removes him. But the President is not to remove him without assigning his reasons to the Senate; and there is no object in having the reasons assigned, unless those reasons are to be examined, and their sufficiency decided upon by the Senate, as well as by the whole people. The President, therefore, must not only be able to assign satisfactory reasons, but he must be enabled to establish, by satisfactory proof, every fact upon which those reasons are founded. If he does not do this, he may be condemed in the judgment of others, however good those reasons may be in his own mind, and however well proved may be the facts in his own judgment. The practical result, then, must be, that the President cannot remove from office until misconduct or corruption shall not only be made to appear satisfactorily to him to exist, but it must be so satisfactorily proved as to establish the fact to the satisfaction of the Senate. The reasons, then, must be as satisfactory and as well established as if an impeachment of the officer was to be brought forward by the House, and tried and decided in this body. It would readily be perceived that, if such was to be the practical operation of the proposed bill, it virtually made the tenure of office a tenure during good behaviour, which is the same as during life, unless misconduct is proved. This bill, then, really proposes a practical change of the mode of holding office under this Government, as to all the officers but the judicial officers; and gives the same security to all others as to the judicial officers, except that the judicial officers will hold their offices by virtue of the constitutional provision, while the others hold theirs by virtue of the law.

And what is to be the effect of the proposed change? In the first place, it creates a privileged class in the community. And I am not disposed to encourage the establishment of a favored and privileged class, having distinct interest and a separated feeling marked off, and divided from the people by distinguishable lines.

Reason and experience both teach us that the result of holding offices during good behaviour is to create an impression in the officer that he may consult his own feelings, his own convenience, his caprice, or pleasure, instead of the interests and the convenience of the people, for whose benefit only he holds or ought to hold it. He will conduct differently in office from what he would do if he knew that he was at all times subject to be removed, whenever it could be shown that the people could be better served by another.

The officer who holds during good behaviour soon acquires a disposition to regard the office as his own property or estate, rather than as a trust merely, which he administers, not for his own benefit, but for the benefit of the whole people. And he is not influenced by that direct sense of duty which ought to and would control him if he was more sensible of a direct accountability to public opinion. The tendency is to hold out temptations to him to abuse his trust, because he can do it with less danger of being deprived of it.

If offices are held during good behaviour, or life, the Government is disabled from doing justice to the people; they have a right to require of the Government the appointment of such men to office as can best perform the duties; and it may happen, and frequently does and will happen, that individuals are selected for office who prove to be deficient in those qualifications of mind or habits of life which are necessary to enable them to discharge the duties to the best advantage, and most usefully; and yet they may endeavor to do well. And are the people to suffer all the evils of their remaining in office for life, while they may be useful to themselves or others in a different situation, and when others may be enabled to discharge the duties intrusted to them much more to the interest and satisfaction of the people? Is it just to the people to continue a man in office for life, if he has done well, who may have been so fortunate as to accumulate a large estate, while there may be found many equally capable of performing the duties, who, by disease or other misfortunes, may have been reduced to want, or may be disqualified for more active and laborious business?

It may be desirable to have the power to bestow office upon those well qualified, who, in the service of their country in time of war, may have been disabled for the more active duties of life by the loss of a limb, or by the effects of disease, instead of burdening the people with their support by a pension. And must the Government be deprived of this power, for the purpose, it may be, of assisting the luxurious office-holder to obtain still other indulgences?

The effect will be to perpetuate abuses. A man long in office, if he becomes skilful in the performance of its duties, becomes also skilful in all the means by which he may use it for oppression, for the accumulation of unjust gains; and skilful in the thousand devices by which he may tax the Government and people both, and obtain emoluments which were never designed for him.

He becomes wise, also, in covering up, and in keeping secret, abuses which exist; and which can never be discovered and proved, even when believed to exist, until he is removed, and all his papers and proceedings are subjected to the examination of others. It has been often found that it is only by removals that the truth, with regard to the conduct of officers, is disclosed. And for this reason it is, that many of the States have limited a period of time beyond which no person should hold the office of Treasurer. They have judged it to be wise to deprive those of office, who are intrusted with their money, at certain short periods of time, and to require a surrender of all their papers, and an examination of all their conduct; and they do this because they judge it to be the only certain and effectual method of having the trust faithfully and safely discharged. Why should a rule, deemed just and wise by so many States, be disregarded by us?

Experience has taught the States, as well as the Union, that it is a wise and just rule. Many instances of defalcation and corruption among those who were supposed to be good officers while in office, have been discovered on their retiring by virtue of a law, or on their removal; and their names could be given, but I forbear to do it, as it is not necessary to the argument.

There is now a double responsibility upon public officers. They are responsible to the President, as the Executive; and they are now also responsible to the people. They must so discharge their duties as to satisfy those whose duty it is to overlook them and to see that their duties are faithfully and punctually performed; and they must also so discharge them as to promote the interest and convenience of the people for whose benefit they hold the trust. And a failure to satisfy both, will justly, in my judgment, call for a change. How frequently does the knowledge that an officer does not discharge his duties in a proper manner come to the appointing power only through his responsibility to public opinion? But it cannot be expected that public opinion will be the means of checking the abuses of office, when that public opinion can have no operative influ-

ence upon the officer. Proof is required; general dissatisfaction and complaint can effect nothing. Who will put himself in the power of an officer, clothed with perpetual authority, by becoming his accuser, when he must know that, if he fails in making certain proof, he is to be subjected to an interminable difficulty? No one, sir. It will never be done. The officer will feel that he can hold office in defiance of public opinion; and the people will feel it too; and will no longer regard the officer as one of themselves, performing services for their benefit, but they will look upon him as one estranged from their interests and foreign from their feelings, and there will no longer exist that confidence and harmony between public officers and the people, which ought to exist, and must exist, for the benefit of the people. The people now can make themselves heard and respected; and, by the force of public opinion, can have their servants displaced. But if the President is required to give satisfactory reasons for a removal, he must first have the proof of misconduct; and if proof is attempted, as long as parties exist, the testimony will be contradictory, and there will be room for a dispute upon the facts, and the people will never be enabled to procure a removal until a case is made so clear as to authorize and justify an impeachment. The voice of the people is lost; they can no longer be heard, or, if heard, respected. I would never take away this two-fold responsibility; never destroy this responsibility to the people.

A man may prove to be a bad public officer from constitutional traits of character. He may be slow in the discharge of duty, where expedition is required. He may have an irritable temper, where great patience is desirable or necessary. These, and a great variety of other causes, may prevent his discharging official duties as they ought to be discharged; and yet he may not be chargeable with any intentional misconduct; and must the people suffer under these inconveniences without any effectual remedy? The injury and inconvenience to the individual by removal, is not at all to be compared to the public injury by his continuance, in such cases.

But, sir, I go further, and I will say plainly that I hold to "rotation in office." I would not necessarily require any positive fault in an officer in order to remove him from office. If the constitution had been so made as to entitle the officer to retain office during good behaviour, I would myself, if no other person did, move an amendment to it to change the tenure of office. I can never agree to the principle that offices are to be held for life. I protest against it from first to last. It operates against the people; its tendency is to produce mischief, not good to them; good to none but to that privileged class which it establishes.

He who performs his duties well has established no special claim to future favor. He has received his full pay in the manner in which he expected to receive it, when he accepted the office, whether it be a pecuniary or an honorary reward. Others are equally entitled with himself, at all times, and he has no just cause of complaint if he is required to share either honors or emoluments with others.

It is just, and proper, and useful, without regard to party, or party favors, to change public officers. It is in accordance with our system of Government, which holds out equal rights and equal privileges to all. And when officers hold under this Government during good behaviour, then one of its great features, of holding out equal privileges to all, will have been destroyed. I yield to the violation of the principle in the case of judicial officers, only from the necessity of the case. The judicial power constitutes one of the distinct branches of the Government. It is called upon to decide whether the legislative branch has exceeded its constitutional power in the enactment of the laws. It is required to give a legal construction to the meaning of those laws. It is supposed these decisions may be disagreeable or offensive to the Legislature. It must, in like manner, sit in judgment upon the manner in which the officers of the executive branch execute the laws, and may offend there, also, if its duty is faithfully discharged. The number of persons composing the judicial power is small, its patronage is small, if it has any. In theory it is supposed to be comparatively more feeble than the other branches; and that it needs to be strengthened by giving it security in the tenure of office, for the purpose of preserving its integrity and independence. Whether experience fully justifies the soundness of the reasons, or not, which decided that the tenure of office in the judicial branch should be during good behaviour, I think it may be said with safety that it does not warrant the extension of the like tenure to any other officer of the Government.

I forbear to enter upon the argument, at this time, of the constitutional question presented in the bill, requiring the President to give his reasons for a removal of an officer to this body. The subject is too broad for discussion at this time, when so few days remain for the business of the session. I will only say that, in my opinion, the power of removal rightfully belongs to the President, under the constitution, independent of the uniform practice ever since the existence of the Government. The uniform practice of the Government, and the acquiescence of the people under that practice, without complaint, since its first formation, have settled it, if a question can be settled. In my judgment, therefore, the proposed measure is unconstitutional. It requires one independent branch of the Government to give reasons for its conduct to another independent branch; and, if one branch must give the reasons of its acts to another branch, it follows, of course, that those reasons are to be examined, and a judgment is to be formed and pronounced upon them. And the result is to be, that one branch of the Government is to be trying and judging another branch as independent as itself; and the spectacle is to be presented, of the separate branches of the Government occupying their time in hearing testimony, and judging of each other's acts, instead of attending to the duties intrusted to them under the constitution. I find no provision in the constitution authorizing such a course; and, until it can be shown, I must hold it to be alike inexpedient and unconstitutional. The accountability of the three separate and independent branches of the Government is not to each other, except in cases such as impeachment, provided for in the constitution, but to the people.

This bill proposes a measure, then, which, in my judgment, is a violation of good sense, sound reason, and the provisions of the constitution.

Mr. CLAY said that he had intended to make a few remarks; but, as it was late in the day, and as this was Saturday evening, he would postpone what he desired to say to another time. He begged leave, however, to throw out, rather for the information of the Senate and the committee, than to force a discussion, an amendment which he proposed as a substitute for the second section, which amendment was entirely in effect what he had submitted last session, in the form of resolutions. The amendment went a little farther than the second section as it now stood; but that section involved the principle of the amendment. He hoped the Senator in his eye would come out on this question, and let it be seen if there was any one on this floor who would rise and assert that the President had the power, without any ground, even of constitutional implication, to remove from office; that the stream could exist without the

spring. If the President had such power, then the constitution was not worth a sous. The friends of the administration seemed to be rather shy about the constitution, except one who said that he would not touch it. Was it because the subject was above his power? Not so. That gentleman had already given evidence that he possessed the ability. Could he find no constitutional foundation for the erection of this power? I object (said Mr. C.) to give the President a band of one hundred thousand pensioned officers, more efficient as a guard than the Prætorian bands of Rome. If there be this power of removal expressly given in the constitution, and I have sought sedulously to find it; if it be an inherent power, let the gentleman show us the fact, that it may be opened to the human vision. When the subject shall be resumed on Monday, I shall come here in the hope that some of the leaders of the administration party will come out, with book in hand, and show the text for this tremendous power. He would, for the present, content himself with laying the following amendment on the table:

Be it further enacted, That, in all instances of appointment to office by the President, by and with the advice and consent of the Senate, the power of removal shall be exercised only in concurrence with the Senate; and, when the Senate is not in session, the President may suspend any such officer, communicating his reasons for the suspension during the first month of the succeeding session; and if the Senate concur with him, the officer shall be removed; but if it do not concur with him, the officer shall be restored to office.

Mr. BUCHANAN. I am exceedingly sorry, Mr. President, that the Senator from Kentucky [Mr. CLAY] appears to be disposed so often to pay his compliments to myself.

Mr. CLAY. I had no allusion to the Senator from Pennsylvania when I referred to the leaders of the administration party.

Mr. BUCHANAN. When the gentleman spoke of the leaders of the administration party, he looked at me, and I understood him as alluding to me, or I thought he did.

Mr. CLAY. I assure the gentleman I had no allusion to him whatever. I might look at him, as he looks at me sometimes; but I think at the time I spoke of the leaders of a particular party, I was looking rather to the Senator from New York [Mr. WRIGHT] than to him.

Mr. BUCHANAN. Without going further into the question of who the gentleman referred to in his remarks, I will simply state that, whenever he thinks proper to take up the subject, and attempt to prove that the practice under which this Government has flourished, and which was sustained by Madison, is not founded in reason and justice, is not necessary for the proper administration of the Government, and is not consistent with the constitution, then I will be ready to meet him.

Mr. CLAY. We shall meet, then, at Philippi.

The Senate adjourned.

MONDAY, FEBRUARY 16.

A series of resolutions offered some days since by Mr. BENTON, calling on the President to furnish, at the next session, detailed information as to the amount received from the various sources of public revenue, were taken up, and having been read,

Mr. POINDEXTER suggested that these resolutions were of a very extraordinary character. He was not inclined, himself, to make a call on any executive officer, any head of a department, for any thing but facts. The resolutions now under consideration were more comprehensive in their character than any which he had seen offered since he entered public life. The principal part of the call was for the opinions of the President. If these resolutions were to be adopted, he should move to add, as an amendment to them, that the President should append to his reply a treatise on banking and currency, and an entire history of his administration.

Nor did he consider it respectful, in a series of resolutions of this kind, to remind the President of his constitutional duties. The President was, by the constitution, bound to treat of these matters in his annual message to Congress, if he considered that they were deserving of notice. What were the duties prescribed by the constitution to the President?

"He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."

Now, all the matters which were incorporated in the resolution, especially that which calls for the opinions of the Executive as to the administration of the departments, came within the strict line of the constitutional duties of the President. He (Mr. P.) had never seen such resolutions adopted here or any where else. At the adoption of the constitution, the question was much discussed whether it was proper to call on the head of a Department or the Executive for his opinions. It was then the opinion of the democratic side of the House—whether it was the same as the democratic party of this day, he knew not, but, if it was so, he presumed the President had a control over it—that it was not competent for the executive department of the Government to give any opinions. And Mr. Hamilton's celebrated report, containing his reasons, was considered strongly objectionable on that account.

As it was near the time for taking up the special order, and as he intended to offer some objections to the resolutions, he would now move to lay them on the table, with an understanding that he would call them up for consideration on the day after to-morrow.

Mr. BENTON, who had risen to ask for the yeas and nays, waived the intention, on the understanding that the resolutions should be certainly called up at the time mentioned.

DISTRICT OF COLUMBIA.

The bill to authorize the adoption of the penal code prepared for the District of Columbia was then taken up as in Committee of the Whole.

Mr. TYLER stated that, two years ago, the code to which this bill referred had been submitted to Congress. It was almost inconceivable the utter confusion of the laws of this District. The cession of the District of Columbia was made above thirty years ago, when it came into the hands of the general Government, with the laws of the States from which it had been detached. Whatever had been the subsequent modifications in the laws of those States, they were refused to the people of this District. He should be too prolix were he to go into an enumeration of all these laws. Some of them had been for more than a century in operation; while others, which had reference to a particular class of the community, and which would make a Christian man blush, had been suffered to sleep from motives of humanity. These, it was true, were dormant, but they might be resorted to. There were laws in reference to that class of population to which his own objections were as strong as those of any individual, whether a resident of the north or the south bank of the Potomac. He had a decided objection to the District of Columbia being made a slave mart, a depot for the slaves brought from the two neighboring States. This code went to reform that part of the system of laws under which the District had been made a depot for these slaves, and abolishes this practice.

The punishments to which the black population had been subjected, were, in no degree, to be justified. There were great ameliorations of the law in that respect.

In reference to the judicial system of the District, nothing could be in a worse condition than that in which it was found to be by the committee. Time would not permit a full development of its evils, but it appeared to him that the injuries it had inflicted on the people of the District were sufficient to break down the energies of the people of any State in the Union. The system as to the magistracy was such as would be a curse on any people. In passing through the streets, you were struck with the notices placed conspicously over the doors, "Magistrate's Office," a notice which sounded in his ears very much like "Justice bought and sold here." At these offices the laws were administered by single justices. Armies of constables were affiliated by these justices; and the justice favored the constable, and the constable favored the justice: for in proportion to the multitude of suits, were the profits increased, both of the justice and the constable. And where the system was such as to make the justice dependent upon his fees for his subsistence, the effect was to make the official preserver of peace, in effect, a peace disturber—a promoter of discord and ill-feeling among the community. He desired it to be understood that, in these remarks, he did not speak of any individual, but of the system.

It was proposed to modify the prevailing system so as to save to the people of this District, in fees alone, at least $40,000 per anuum. While engaged with the committee in the investigation of this subject, he had heard of very great abuses. Nothing was found to be a more abundant source of profit than to get up suits of assault and battery: nothing was more profitable to magistrate, officers, jurors, and witnesses. If there was a loose population about the offices of the justices, they were always ready to act as jurors, and receive the compensation allowed by law. He had heard much in the form of accusation on this subject, but there was nothing which had come under his personal observation. Still, if there was but a whisper of wrong, it was sufficient cause to press on the work of reform. The scheme which had been reported by the committee would, at the lowest estimate, save to the people of the District $40,000 annually in judicial fees.

He then made some observations on the tardy operation of the courts, and the consequent procrastination of suits, in consequence of there being but one set of courts to try all offences—petty larceny, grand larceny, homicide in all its varieties, and every other offence. It was unavoidable, under such a system, that the progress of the courts should be tardy; and this was an evil which called loudly for reform.

Mr. T. said he would not at this time go further into the subject. The bill had come up unexpectedly this morning, but he had thought it right to throw out the few remarks he had made for the purpose of arresting the attention of the Senate, and of the citizens of the District, to the manner in which the laws were administered.

The question had now come up in the form in which it was presented in this bill. He would himself have preferred that Congress should have taken up the code, and considered its provisions *seriatim*, until they had succeeded in giving the District a good code of laws. If the Senate should be indisposed to act on the form now presented to it, he was willing to let the subject sleep until the next session. His object had been to call the attention of the people of the District to the subject. The scheme of the committee had not found favor among the office-holders. They were always the last persons to favor any thing like reform. But if the people, oppressed as they had been under the evils of the old system, desired that reform, they should have his hearty co-operation so long as he held a seat on this floor.

On motion of Mr. CALHOUN, the bill was then laid on the table, for the purpose of taking up the special order of the day.

EXECUTIVE PATRONAGE.

The Senate resumed the consideration of the bill reported by the Committee on Executive Patronage, to repeal the act of 1820, limiting the terms of service of certain officers, &c.

Mr. WEBSTER said the professed object of this bill was the reduction of executive influence and patronage. I concur, said Mr. W., in the propriety of that object. Having no wish to diminish or to control, in the slightest degree, the constitutional and legal authority of the presidential office, I yet think that the indirect and vastly increasing influence which it possesses, and which arises from the power of bestowing office, and of taking it away again at pleasure, and from the manner in which that power seems now to be systematically exercised, is productive of serious evils.

The extent of the patronage springing from this power of appointment and removal is so great that it brings a dangerous mass of private and personal interest into operation in all great public elections and public questions. This is a mischief which has reached, already, an alarming height. The principle of republican Governments, we are taught, is public virtue; and, whatever tends either to corrupt this principle, to debase it, or to weaken its force, tends, in the same degree, to the final overthrow of such Governments. Our representative systems suppose that, in exercising the high right of suffrage, the greatest of all political rights, and in forming opinions on great public measures, men will act conscientiously, under the influence of public principle and patriotic duty; and that, in supporting or opposing men or measures, there will be a general prevalence of honest, intelligent judgment, and manly independence. These presumptions lie at the foundation of all hope of maintaining Governments entirely popular. Whenever personal, individual, or selfish motives influence the conduct of individuals on public questions, they affect the safety of the whole system. When these motives run deep and wide, and come in serious conflict with higher, purer, and more patriotic purposes, they greatly endanger that system; and all will admit that, if their extent become general and overwhelming, so that all public principle is lost sight of, and every election becomes a mere scramble for office, the system inevitably must fall. Every wise man, in and out of Government, will endeavor, therefore, to promote the ascendency of public virtue and public principle, and to restrain, as far as practicable, in the actual operation of our institutions, the influence of selfish and private interests.

I concur with those who think that, looking to the present, and looking also to the future, and regarding all the probabilities of what is before us, as to the qualities which shall belong to those who may fill the executive chair, it is important to the stability of Government, and the welfare of the people, that there should be a check to the progress of official influence and patronage. The unlimited power to grant office, and to take it away, gives a command over the hopes and fears of a vast multitude of men. It is generally true that he who controls another man's means of living controls his will. Where there are favors to be granted, there are usually enough to solicit for them; and when favors, once granted, may be withdrawn at pleasure, there is ordinarily little security for personal independence of character. The power of giving office thus affects the fears of all who are in, and the hopes of all who are out. Those who are out endeavor to distinguish themselves by active political friendship, by warm personal devotion, by clamorous support of men in whose hands is the power of reward;

while those who are in ordinarily take care that others shall not surpass them in such qualities, or such conduct, as are most likely to secure favor. They resolve not to be outdone in any of the works of partisanship. The consequence of all this is obvious. A competition ensues, not of patriotic labors, not of rough and severe toils for the public good, not of manliness, independence, and public spirit; but of complaisance, of indiscriminate support of executive measures, of pliant subserviency, and gross adulation. All throng and rush together to the altar of manworship; and there they offer sacrifices, and pour out libations, till the thick fumes of their incense turn their own heads, and turn also the head of him who is the object of their idolatry.

The existence of parties in popular Governments is not to be avoided; and, if they are formed on constitutional questions, or in regard to great measures of public policy, and do not run to excessive length, it may be admitted that, on the whole, they do no great harm. But the patronage of office, the power of bestowing place and emoluments, create parties, not upon any principle, or any measure, but upon the single ground of personal interest. Under the direct influence of this motive, they form round a leader, and they go for "the spoils of victory." And if the party chieftain becomes the national chieftain, he is still but too apt to consider all who have opposed him as enemies to be punished, and all who have supported him as friends to be rewarded. Blind devotion to party, and to the head of a party, thus take place of the sentiments of generous patriotism, and a high and exalted sense of public duty.

Let it not be said, sir, that the danger of executive patronage cannot be great, since the persons who hold office, or can hold office, constitute so small a portion of the whole people.

In the first place, it is to be remembered that patronage acts not only on those who actually possess office, but on those also who expect it, or hope for it; and, in the next place, office-holders, by their very situation, their public station, their connexion with the business of individuals, their activity, their ability to help or to hurt, according to their pleasure; their acquaintance with public affairs, and their zeal and devotion, exercise a degree of influence out of all proportion to their numbers.

Sir, we cannot disregard our own experience. We cannot shut our eyes to what is around us and upon us. No candid man can deny that a great, a very great, change has taken place within a few years, in the practice of the executive Government, which has produced a corresponding change in our political condition. No one can deny that office of every kind is now sought with extraordinary avidity, and that the condition, well understood to be attached to every officer, high or low, is indiscriminate support of executive measures, and implicit obedience to executive will. For these reasons, sir, I am for arresting the further progress of this executive patronage, if we can arrest it. I am for staying the further contagion of this plague.

The bill proposes two measures. One is to alter the duration of certain offices, now limited absolutely to four years, so that the limitation shall be qualified or conditional. If the officer is in default, if his accounts are not settled, if he retains or misapplies the public money, information is to be given thereof, and thereupon his commission is to cease. But if his accounts are all regularly settled, if he collects and disburses the public money faithfully, then he is to remain in office, unless, from some other cause, the President sees fit to remove him. This is the provision of the bill. It applies only to certain enumerated officers, who may be called accounting officers; that is to say, officers who receive and disburse the public money. Formerly all these officers held their places at the pleasure of the President. If he saw no just cause for removing them, they continued in their situations; no fixed period being assigned for the expiration of their commissions. But the act of 1820 limited the commissions of these officers to four years. At the end of four years they went out, without any removal, however well they may have conducted, or however useful to the public their further continuance in office might be. They might be nominated again, or might not; but their commissions expired.

Now, sir, I freely admit that considerable benefit has arisen from this law. I agree that it has, in some instances, secured promptitude, diligence, and a sense of responsibility. These were the benefits which those who passed the law expected from it; and these benefits have, in some measure, been realized. But I think that this change in the tenure of office, together with some good, has brought along a far more than equivalent amount of evil. By the operation of this law, the President can deprive a man of office without taking the responsibility of removing him. The law itself vacates the office, and gives the means of rewarding a friend without the exercise of the power of removal at all. Here is increased power, with diminished responsibility. Here is a still greater dependence for the means of living on executive favor, and of course a new dominion acquired over opinion and over conduct. The power of removal is, or at least formerly was, a suspected and odious power. Public opinion would not always tolerate it; and still less frequentiy did it approve it. Something of character, something of the respect of the intelligent and patriotic part of the community, was lost by every instance of its unnecessary exercise. This was some restraint. But the law of 1820 took it all away. It vacated offices periodically by its own operation, and thus added to the power of removal, which it left still existing in full force, a new and extraordinary facility for the extension of patronage, influence, and favoritism.

I would ask every member of the Senate if he does not perceive, daily, effects which may be fairly traced to this cause? Does he not see a union of purpose, a devotion to power, a co-operation in action, among all who hold office, quite unknown in the earlier periods of the Government? Does he not behold, every hour, a stronger development of the principles of personal attachment, and a corresponding diminution of genuine and generous public feeling? Was indiscriminate support of measures, was unwavering fealty, was regular suit and service, ever before esteemed such important and essential parts of official duty?

Sir, the theory of our institutions is plain: it is, that Government is an agency, created for the good of the people; and that every person in office is the agent and servant of the people. Offices are created, not for the benefit of those who are to fill them, but for the public convenience; and they ought to be no more in number, nor should higher salaries be attached to them, than the public service requires. This is the theory. But the difficulty, in practice, is to prevent a direct reversal of all this; to prevent public offices from being considered as intended for the use and emolument of those who can obtain them. There is a headlong tendency to this, and it is necessary to restrain it by wise and effective legislation. There is still another, and perhaps a greatly more mischievous result, from extensive patronage in the hands of a single magistrate, and to which I have already incidentally alluded. And that is, that men in office have begun to think themselves mere agents and servants of the appointing power, and not agents of the Government or the country. It is, in an especial manner, important, if it be practicable, to apply some corrective to this kind of feeling and opinion. It is necessary to

bring back public officers to the conviction that they belong to the country, and not to any administration, nor to any one man.

The army is the army of the country; the navy is the navy of the country; neither of them is either the mere instrument of the administration for the time being, or of him who is at the head of it. The Post Office, the Land Office, the Custom-house, are, in like manner, institutions of the country, established for the good of the people; and it may well alarm the lovers of free institutions, when all the offices in these several departments are spoken of, in high places, as being but "spoils of victory," to be enjoyed by those who are successful in a contest, in which they profess this grasping of the spoils to have been the object of their efforts.

This part of the bill, therefore, sir, is a subject for fair comparison. We have gained something, doubtless, by limiting the commissions of these officers to four years. But have we gained as much as we have lost? And may not the good be preserved, and the evil still avoided? Is it not enough to say, that if, at the end of four years, moneys are retained, accounts unsettled, or other duties unperformed, the office shall be held to be vacated, without any positive act of removal?

For one, I think the balance of advantage is decidedly in favor of the present bill. I think it will make men more dependent upon their own good conduct, and less dependent on the will of others. I believe it will cause them to regard their country more, their own duty more, and the favor of individuals less. I think it will contribute to official respectability, to freedom of opinion, to independence of character; and I think it will tend, in no small degree, to prevent the mixture of selfish and personal motives with the exercise of high political duties. It will promote true and genuine republicanism, by causing the opinion of the people, respecting the measures of Government and the men in Government, to be formed and expressed without fear or favor, and with a more entire regard to their true and real merits or demerits. It will be, so far as its effects reach, an auxiliary to patriotism and public virtue, in their warfare against selfishness and cupidity.

The second check on executive patronage, contained in this bill, is of still greater importance than the first. This provision is, that, whenever the President removes any of these officers from office, he shall state to the Senate the reasons for such removal.

This part of the bill has been opposed, both on constitutional grounds, and on grounds of expediency.

The bill, it is to be observed, expressly recognises and admits the actual existence of the power of removal. I do not mean to deny, and the bill does not deny, that, at the present moment, the President may remove these officers at will, because the early decision adopted that construction, and the laws have since, uniformly, sanctioned it.

The law of 1820, intended to be repealed by this bill, expressly affirms the power. I consider it, therefore, a settled point; settled by construction, settled by precedent, settled by the practice of the Government, and settled by statute. At the same time, I am very willing to say that, after considering the question again and again, within the last six years, in my deliberate judgment, the original decision was wrong. I cannot but think that those who denied the power, in 1789, had the best of the argument; and yet, I will not say that I know myself so thoroughly as to affirm that this opinion may not have been produced, in some measure by that abuse of the power which has been passing before our eyes for several years. It is possible that this experience of the evil may have affected my view of the constitutional argument. It appears to me, however, after thorough, and repeated, and conscientious examination, that an erroneous interpretation was given to the constitution, in this respect, by the decision of the first Congress; and I will ask leave to state, shortly, the reasons for that opinion, although there is nothing in this bill which proposes to disturb that decision.

The constitution no where says one word of the power of removal from office, except in the case of conviction on impeachment. Wherever the power exists, therefore, except in cases of impeachment, it must exist as a constructive or incidental power. If it exists in the President alone, it must exist in him because it is attached to something else, or included in something else, or results from something else, which is granted to the President. There is certainly no specific grant: it is a power, therefore, the existence of which, if proved at all, is to be proved by inference and argument.

The only instance in which the constitution speaks of removal from office, as I have already said, it speaks of it as the exercise of judicial power; that is to say, it speaks of it as one part of the judgment of the Senate, in cases of conviction on impeachment. No other mention is made, in the whole instrument, of any power of removal. Whence, then, is the power derived to the President?

It is usually said, by those who maintain its existence in the single hands of the President, that the power is derived from that cluse of the constitution which says "the executive power shall be vested in a President." The power of removal, they argue, is, in its nature, an executive power; and, as the executive power is thus vested in the President, the power of removal is necessarily included.

It is true that the constitution declares that the executive power shall be vested in the President; but the first question which then arises is, what is executive power? What is the degree, and what are the limitations? Executive power is not a thing so well known and so accurately defined as that the written constitution of a limited Government can be supposed to have conferred it in the lump. What is executive power? What are its boundaries? What model, or example, had the framers of the constitution in their minds when they spoke of "executive power?" Did they mean executive power as known in England, or as known in France, or as known in Russia? Did they take it as defined by Montesquieu, by Burlamaqui, or by De Lolme? All these differ from one another as to the extent of the executive power of government. What, then, was intended by the "executive power?" Now, sir, I think it perfectly plain and manifest that, although the framers of the constitution meant to confer executive power on the President, yet they meant to define and limit that power, and to confer no more than they did thus define and limit. When they say it shall be vested in a President, they mean that one magistrate, to be called a President, shall hold the executive authority; but they mean, further, that he should hold this authority according to the grants and limitations of the constitution itself.

They did not intend, certainly, a sweeping gift of prerogative; they did not intend to grant to the President, whatever might be construed, or supposed, or imagined, to be executive power; and the proof that they meant no such thing is, that, immediately after using these general words, they proceed, specifically, to enumerate his several distinct and particular authorities, to fix and define them; to give the Senate an essential control over the exercise of some of them, and to leave others uncontrolled. By the executive power conferred on the President, the constitution means no more than that portion which itself creates, and which it qualifies, limits, and circumscribes.

A general survey of the frame of the constitution will satisfy us of this. That instrument goes all along upon

the idea of dividing the powers of Government, so far as practicable, into three great departments. It describes the powers and duties of these departments in an article allotted to each. As first in importance and dignity, it begins with the legislative department. The first article of the constitution, therefore, commences with the declaration that "all legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." The article goes on to prescribe the manner in which Congress is to be constituted and organized, and then proceeds to enumerate, specifically, the powers intended to be granted; and adds the general clause, conferring such authority as may be necessary to carry granted powers into effect. Now, sir, no man doubts that this isa limited Legislature; that it possesses no powers but such as are granted by express words or necessary implication; and that it would be quite preposterous to insist that Congress possessed any particular power merely because it is, in its nature, a legislative body, if no grant can be found for it in the constitution itself.

Then comes, sir, the second article, creating an executive power; and it declares that "the executive power shall be vested in a President of the United States." After providing for the mode of choosing him, it immediately proceeds to enumerate, specifically, the powers which he shall possess and exercise, and the duties which he shall perform. I consider the language of this article, therefore, precisely equivalent to that in which the Legislature is created; that is to say, I understand the constitution as saying that "the executive power herein granted shall be vested in a President of the United States."

In like manner the third article, or that which is intended to arrange the judicial system, begins by declaring that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." But these general words do not show what extent of judicial power is vested in the courts of the United States. All that is left to be done, and is done, in the following sections, by express and well-guarded provisions.

I think, therefore, sir, that very great caution is to be used, and the ground well considered, before we admit that the President derives any distinct and specific power from those general words which vest the executive authority in him. The constitution itself does not rest satisfied with these general words. It immediately goes into particulars, and carefully enumerates the several authorities which the President shall possess. The very first of the enumerated powers is the command of the army and navy. This, most certainly, is an executive power. And why is it particularly set down and expressed, if any power was intended to be granted under the general words? This would pass, if any thing would pass, under those words. But enumeration, specification, particularization, was evidently the design of the framers of the constitution, in this as in other parts of it. I do not, therefore, regard the declaration that the executive power shall be vested in a President, as being any grant at all, any more than the declaration that the legislative power shall be vested in Congress constitutes by itself a grant of such power. In the one case, as in the other, I think the object was to describe and denominate the department which should hold, respectively, the legislative and the executive authority; very much as we see, in some of the State constitutions, that the several articles are headed with the titles, "legislative power," "executive power," "judicial power;" and this entitling of the articles with the name of the power has never been supposed of itself to confer any authority whatever. It amounts to no more than naming the departments.

If, then, the power of removal be admitted to be an executive power, still it must be sought for and found among the enumerated executive powers, or fairly implied from some one or more of them. It cannot be implied from the general words. The power of appointment was not left to be so implied; why, then, should the power of removal have been so left? They are both closely connected; one is indispensable to the other; why, then, was one carefully expressed, defined, and limited, and not one word said about the other?

Sir, I think the whole matter is sufficiently plain. Nothing is said in the constitution about the power of removal, because it is not a separate and distinct power. It is part of the power of appointment, naturally going with it or necessarily resulting from it. The constitution or the laws may separate these powers, it is true, in a particular case, as is done in respect to the judges, who, though appointed by the President and Senate, cannot be removed at the pleasure of either, or of both. So a statute, in prescribing the tenure of any other office, may place the officer beyond the reach of the appointing power. But where no other tenure is prescribed, and officers hold their places at will, that will is necessarily the will of the appointing power; because the exercise of the power of appointment at once displaces such officers. The power of placing one man in office, necessarily implies the power of turning another out. If one man be Secretary of State, and another be appointed, the first goes out, by the mere force of the appointment of the other, without any previous act of removal whatever. And this is the practice of the Government, and has been from the first. In all the removals which have been made, they have generally been effected simply by making other appointments. I cannot find a case to the contrary. There is no such thing as any distinct official act of removal. I have looked into the practice, and caused inquiries to be made in the Departments, and I do not learn that any such proceeding is known as an entry or record of the removal of an officer from office; and the President could only act in such cases by causing some proper record or entry to be made as proof of the fact of removal. I am aware that there have been some cases in which notice has been sent to persons in office that their services are, or will be, after a given day, dispensed with. These are usually cases in which the object is, not to inform the incumbent that he is removed, but to tell him that a successor either is, or by a day named will be, appointed. If there be any instances in which such notice is given, without express reference to the appointment of a successor, they are few; and, even in these, such reference must be implied; because in no case is there any distinct official act of removal, as I can find, unconnected with the act of appointment. At any rate, it is the usual practice, and has been from the first, to consider the appointment as producing the removal of the previous incumbent. When the President desires to remove a person from office, he sends a message to the Senate nominating some other person. The message usually runs in this form: "I nominate A B to be collector of the customs, &c. in the place of C D, removed." If the Senate advise and consent to this nomination, C D is effectually out of office, and A B is in, in his place. The same effect would be produced if the message should say nothing of any removal. Suppose A B to be Secretary of State, and the President to send us a message saying, merely, "I nominate C D to be Secretary of State." If we confirm this nomination, C D becomes Secretary of State, and A B is necessarily removed.

I have gone into these details and particulars, sir, for

the purpose of showing that, not only in the nature of things, but also according to the practice of the Government, the power of removal is incident to the power of appointment. It belongs to it, is attached to it, forms a part of it, or results from it.

If this be true, the inference is manifest. If the power of removal, when not otherwise regulated by constitution or law, be part and parcel of the power of appointment, or a necessary incident to it, then whoever holds the power of appointment, holds also the power of removal. But it is the President and the Senate, and not the President alone, who hold the power of appointment; and, therefore, according to the true construction of the constitution, it should be the President and Senate, and not the President alone, who hold the power of removal.

The decision of 1789 has been followed by a very strange and indefensible anomaly, showing that it does not rest on any just principle. The natural connexion between the appointing power and the removing power has, as I have already stated, always led the President to bring about a removal by the process of a new appointment. This is quite efficient for his purpose, when the Senate confirms the new nomination. One man is then turned out, and another put in. But the Senate sometimes rejects the new nomination; and what then becomes of the old incumbent? Is he out of office, or is he still in? He has not been turned out by any exercise of the power of appointment, for no appointment has been made. The power has not been exercised. He has not been removed by any distinct and separate act of removal, for no such act has been performed or attempted. Is he still in, then, or is he out? Where is he? In this dilemma, sir, those who maintain the power of removal, as existing in the President alone, are driven to what seems to me very near absurdity. The incumbent has not been removed by the appointing power, since the appointing power has not been exercised. He has not been removed by any distinct and independent act of removal, since no such act has been performed.

They are forced to the necessity, therefore, of contending that the removal had been accomplished by the mere nomination of a successor; so that the removing power is made incident, not to the appointing power, but to one part of it; that is, to the nominating power. The nomination, not having been assented to by the Senate, it is clear has failed, as the first step in the process of appointment. But, though thus rendered null and void in its main object, as the first process in making an appointment, it is held to be good and valid, nevertheless, to bring about that which results from an appointment; that is, the removal of the person actually in office. In other words, the nomination produces the consequences of an appointment, or some of them, though it be itself no appointment, and effects no appointment. This, sir, appears to me to be any thing but sound reasoning and just construction.

But this is not all. The President has sometimes sent us a nomination to an office already filled, and, before we have acted upon it, has seen fit to withdraw it. What is the effect of such a nomination? If a nomination, merely as such, turns out the present incumbent, then he is out, let what will become afterwards of the nomination. But I believe the President has acted upon the idea that a nomination made, and at any time afterwards withdrawn, does not remove the actual incumbent.

Sir, even this is not the end of the inconsistencies into which the prevailing doctrine has led. There have been cases in which nominations to offices, already filled, have come to the Senate, remained here for weeks, or months, the incumbents all the while continuing to discharge their official duties, and relinquishing their offices only when the nominations of their successors have been confirmed and commissions issued to them. So that, if a nomination be confirmed, the nomination itself makes no removal. The removal, then, waits to be brought about by the appointment; but if the nomination be rejected, then the nomination itself, it is contended, has effected the removal. Who can defend opinions which lead to such results?

These reasons, sir, incline me strongly to the opinion that, upon a just construction of the constitution, the power of removal is part of, or a necessary result from, the power of appointment, and, therefore, that it ought to have been exercised by the Senate concurrently with the President.

The argument may be strengthened by various illustrations. The constitution declares that Congress may vest the appointment of inferior officers in the President alone, in the courts of law, or in the heads of Departments; and Congress has passed various acts, providing for appointments, according to this regulation of the constitution. Thus the Supreme Court, and other courts of the United States, have authority to appoint their clerks; heads of Departments also appoint their own clerks, according to statute provisions; and it has never been doubted that these courts, and these heads of Departments, may remove their clerks at pleasure, although nothing is said in the laws respecting such power of removal. Now it is evident that neither the courts nor the heads of Departments acquire the right of removal under a general grant of executive power, for none such is made to them; nor upon the ground of any general injunction to see the laws executed, for no such general injunction is addressed to them. They, nevertheless, hold the power of removal, as all admit, and they must hold it, therefore, simply as incident to, or belonging to, the power of appointment. There is no other clause under which they can possibly claim it.

Again: let us suppose that the constitution had given to the President the power of appointment, without consulting the Senate. Suppose it had said, "the President shall appoint ambassadors, other public ministers, judges of the Supreme Court, and all other officers of the United States." If the constitution had stood thus, the President would unquestionably have possessed the power of removal, where the tenure of office was not fixed; and no man, I imagine, would, in that case, have looked for the removing power, either in that clause which says the executive authority shall be vested in the President, or in that other clause, which makes it his duty to see the laws faithfully executed. Every body would have said, "the President possesses an uncontrolled power of appointment, and that necessarily carries with it an uncontrolled power of removal, unless some permanent tenure be given to the office by the constitution or by law."

And now, sir, let me state and examine the main argument on which the decision of 1789 appears to rest it.

The most plausible reasoning brought forward on that occasion may be fairly stated thus: "the executive power is vested in the President; this is the general rule of the constitution; the association of the Senate with the President, in exercising a particular function belonging to the executive power, is an exception to this general rule, and exceptions to general rules are to be taken strictly; therefore, though the Senate partakes of the appointing power by express provision, yet, as nothing is said of its participation in the removing power, such participation is to be excluded."

The error of this argument, if I may venture to call it so, considering who used it, lies in this. It supposes the power of removal to be holden by the President under the general grant of executive power. Now, it is certain that the power of appointment is not holden under that general grant, because it is particularly pro-

vided for, and is conferred, in express terms, on the President and Senate. If, therefore, the power of removal be a natural appendage to the power of appointment, then it is not conferred by the general words granting executive power to the President, but is conferred by the special clause which gives the appointing power to the President and Senate. So that the spirit of the very rule on which the argument of 1789, as I have stated it, relies, appears to me to produce a directly opposite result; for if exceptions to a general rule are to be taken strictly, when expressed, it is still more clear that they are not to be implied, without evident and clear grounds, when they are not expressed at all; and as the general power of appointment is confessedly given to the President and Senate, no exception is to be implied in favor of one part of that general power, viz: the removing part, unless for some obvious and irresistible reason. In other words, this argument which I am answering is not sound in its premises, and therefore not sound in its conclusion, if the grant of the power of appointment does naturally include also the power of removal, when this last power is not otherwise expressly provided for. Because, if the power of removal belongs to the power of appointment, or necessarily follows it, then it has gone with it into the hands of the President and Senate, and the President does not hold it alone, as an implication or inference, from the grant to him of general executive powers.

The true application of that rule of construction, thus relied on, would present the argument, I think, in this form: "The appointing power is vested in the President and Senate; this is the general rule of the constitution: the removing power is part of the appointing power; it cannot be separated from the rest but by supposing an exception was intended; but all exceptions to general rules are to be taken strictly, even when expressed, and for a much stronger reason they are not to be implied, when not expressed, unless inevitable necessity of construction requires it."

On the whole, sir, with the diffidence which becomes one who is reviewing the opinions of some of the ablest and wisest men of the age, I must still express my own conviction that the decision of Congress, in 1798, which separated the power of removal from the power of appointment, was founded on an erroneous construction of the constitution, and that it has led to great inconsistencies as well as to great abuses, in the subsequent, and especially in the more recent, history of the Government.

Much has been said now, and much was said formerly, about the inconvenience of denying this power to the President alone. I agree that an argument drawn from this source may have weight in a doubtful case; but it is not to be permitted that we shall presume the existence of a power merely because we think it would be convenient. Nor is there, I think, any such glaring, striking, or certain inconvenience, as has been suggested. Sudden removals from office are seldom necessary; we see how seldom, by reference to the practice of the Government under all administrations which preceded the present. And if we look back over the removals which have been made in the last six years, there is no man who can maintain that there is one case in a hundred in which the country would have suffered the least inconvenience if no removal had been made without the consent of the Senate. Party might have felt the inconvenience, but the country never. Many removals have been made (by new appointments) during the sessions of the Senate; and if there has occurred one single case, in the whole six years, in which the public convenience required the removal of an officer in the recess, such case has escaped my recollection. Besides, it is worthy of being remembered, when we are seeking for the true intent of the constitution on this subject, that there is reason to suppose that its framers expected the Senate would be in session a much larger part of the year than the House of Representatives, so that its concurrence could generally be had, at once, on any question of appointment or removal.

But this argument, drawn from the supposed inconvenience of denying an absolute power of removal to the President, suggests still another view of the question. The argument asserts that it must have been the intention of the framers of the constitution to confer the power on the President for the sake of convenience, and as an absolutely necessary power in his hands. Why, then, did they leave their intent doubtful? Why did they not confer the power in express terms? Why were they thus totally silent on a point of so much importance?

Seeing that the removing power naturally belongs to the appointing power—seeing that in other cases, in the same constitution, its framers have left the one with the consequence of drawing the other after it, if in this instance they meant to do what was uncommon and extraordinary; that is to say, if they meant to separate and divorce the two powers, why did they not say so? Why did they not express their meaning in plain words? Why should they take up the appointing power, and carefully define it, limit it, and restrain it, and yet leave an equally important power, which all must admit to be closely connected with it, if not a part of it, to vague inference and loose construction? If others can account for all this silence respecting the removing power, upon any other ground than that the framers of the constitution regarded both powers as one, and supposed they had provided for them together, I confess I cannot. I have the clearest conviction that they looked to no other mode of displacing an officer than by impeachment, or by the regular appointment of another person to the same place.

But, sir, whether the decision of 1789 were right or wrong, the bill before us applies to the actually existing state of things. It recognises the President's power of removal, in express terms, as it has been practically exercised, independently of the Senate. The present bill does not disturb the power; but I wish not to be understood that the power is, even now, beyond the reach of legislation. I believe it to be within the just power of Congress to reverse the decision of 1789, and I mean to hold myself at liberty to act, hereafter, upon that question as I shall think the safety of the Government and of the constitution may require. The present bill, however, proceeds upon the admission that the power does at present exist. Its words are:

"SEC. 3. *And be it further enacted*, That in all nominations made by the President to the Senate, to fill vacancies occasioned by the exercise of the President's power to remove the said officers mentioned in the second section of this act, the fact of the removal shall be stated to the Senate at the same time the nomination is made, with a statement of the reasons for which such officer may have been removed."

In my opinion, this provision is entirely constitutional, and highly expedient.

The regulation of the tenure of office is a common exercise of legislative authority, and the power of Congress, in this particular, is not at all restrained or limited by any thing contained in the constitution, except in regard to judicial officers. All the rest is left to the ordinary discretion of the Legislature. Congress may give to offices which it creates (except those of judges) what duration it pleases. When the office is created, and is to be filled, the President is to nominate the candidate to fill it; but, when he comes into the office, he comes into it upon the conditions and restrictions which the law may have attached to it. If Congress were to declare, by law, that the Attorney General, or the Secretary of

State, should hold his office during good behaviour, I am not aware of any ground on which such a law could be held unconstitutional. A provision of that kind might be unwise, in regard to such officers, but I do not perceive that it would transcend the power of Congress.

If the constitution had not prescribed the tenure of judicial office, Congress might have thought it expedient to give the judges just such a tenure as the constitution has itself provided; that is to say, a right to hold during good behaviour; and I am of opinion that such a law would have been perfectly constitutional. It is by law, in England, that the judges are made independent of the removing power of the Crown. I do not think that the constitution, by giving the power of appointment, or the power both of appointment and removal, to the President and Senate, intended to impose any restraint on the Legislature, in regard to its authority of regulating the duties, powers, duration, or responsibility of office. I agree that Congress ought not to do any thing which shall essentially impair that right of nomination and appointment of certain officers, such as ministers, judges, &c., which the constitution has vested in the President and Senate. But, while the power of nomination and appointment is left fairly where the constitution has placed it, I think the whole field of regulation is open to legislative discretion. If a law were to pass, declaring that district attorneys, or collectors of customs, should hold their offices four years, unless removed on conviction for misbehaviour, no one could doubt its constitutional validity; because the Legislature is naturally competent to prescribe the tenure of office. And is a reasonable check on the power of removal any thing more than a qualification of the tenure of office? Let it be always remembered that the President's removing power, as now exercised, is claimed and held under the general clause vesting in him the executive authority. It is implied or inferred from that clause alone.

Now, if it is properly derived from that source, since the constitution does not say how it shall be limited, how defined, or how carried into effect, it seems especially proper for Congress, under the general provision of the constitution which gives it authority to pass all laws necessary to carry into effect the powers conferred on any department, to regulate the subject of removal. And the regulation here required is of the gentlest kind. It only provides that the President shall make his reasons for removal of officers of this description known to the Senate, when he does see fit to remove them. It might, I think, very justly, go farther. It might, and perhaps it ought to, prescribe the form of removal, and the proof of the fact. It might, I think, too, declare that the President should only suspend officers, at pleasure, till the next meeting of the Senate, according to the amendment suggested by the honorable member from Kentucky; and, if the present practice cannot be otherwise checked, this provision, in my opinion, ought hereafter to be adopted. But I am content with the slightest degree of restraint which may be sufficient to arrest the totally unnecessary, unreasonable, and dangerous exercise of the power of removal. I desire only, for the present at least, that, when the President turns a man out of office, he should give his reasons for it to the Senate, when he nominates another person to fill the place. Let him give these reasons, and stand on them. If they be fair and honest, he need have no fear in stating them. It is not to invite any trial; it is not to give the removed officer an opportunity of defence; it is not to excite controversy and debate; it is simply that the Senate, and ultimately the public, may know the grounds of removal. I deem this degree of regulation, at least, necessary, unless we are willing to submit all these officers to an absolute and perfectly irresponsible removing power a power which, as recently exercised, tends to turn the whole body of public officers into partisans, dependants, favorites, sycophants, and man-worshippers.

Mr. President, without pursuing the discussion further, I will detain the Senate only while I recapitulate the opinions which I have expressed; because I am far less desirous of influencing the judgment of others, than of making clear the grounds of my own judgment.

I think, then, sir, that the power of appointment naturally and necessarily includes the power of removal, where no limitation is expressed, nor any tenure but that at will declared. The power of appointment being conferred on the President and Senate, I think the power of removal went along with it, and should have been regarded as a part of it, and exercised by the same hands. I think, consequently, that the decision of 1789, which implied a power of removal separate from the appointing power, was erroneous.

But I think the decision of 1789 has been established by practice, and recognised by subsequent laws, as the settled construction of the constitution; and that it is our duty to act upon the case accordingly, for the present, without admitting that Congress may not hereafter, if necessity shall require it, reverse the decision of 1789. I think the Legislature possesses the power of regulating the condition, duration, qualification, and tenure of office, in all cases where the constitution has made no express provision on the subject.

I am, therefore, of opinion that it is competent for Congress to declare by law, as one qualification of the tenure of office, that the incumbent shall remain in place till the President shall remove him, for reasons to be stated to the Senate. And I am of opinion that this qualification, mild and gentle as it is, will have some effect in arresting the evils which beset the progress of the Government, and seriously threaten its future prosperity.

These are the reasons for which I give my support to this bill.

When Mr. WEBSTER had concluded,

Mr. WRIGHT said he had hoped that some one of the individuals who had been so emphatically called upon by the honorable Senator from Kentucky, [Mr. CLAY,] on a former day, as the leaders of the administration party, would have come forward in the debate then pending, and thus have saved him the trouble of addressing the Senate. But, as no such individual appeared, and as the bill was about to be reported, he felt bound to give his humble voice against it, before it proceeded further.

He could not, he said, pursue the course which an answer to the argument of the learned Senator, who had just resumed his seat, [Mr. WEBSTER,] would require, nor could he comply with the call and intimation of the Senator from Kentucky, to which he had alluded.

His object was to repel an implication which might attend the passage of this bill, and for that purpose to refer to such portions of the report of the committee as appeared to him to relate to the provisions of the bill itself, and the considerations involved in the legislation proposed. He did not intend to notice, upon this occasion, any other parts of the report than those which treated of the patronage of the Executive, growing out of his connexion with, and influence over, persons dependent upon, and receiving their support from, the Government. The bill under consideration was all the legislation proposed by the committee, in reference to this part of the executive patronage; and he must suppose that so much of the report as discussed this point was the legitimate subject of comment in connexion with the bill.

Mr. W. said he did not understand the rule of order

to be that laid down by the Senator from New Jersey, [Mr. SOUTHARD,] when he addressed the Senate on Friday last. He had understood that honorable gentleman then to state that the report of the committee was not before the Senate, and proper matter for remark, while proceeding upon this bill. He held a different rule. The bill was reported by a select committee of the Senate. It was one of the results to which that committee had arrived, after great labor and deliberation, and they had spread before the Senate a mass of facts, and a long train of reasoning, as the grounds upon which the bill was recommended to the acceptance of the body. Could it, then, be true that these facts and this reasoning, constituting the report of the committee, were not proper subjects for remark when acting upon the bill? He was sure the honorable Senator, upon more mature reflection, would change his opinion, and hold the report fully before the Senate. He believed that any and every part of the report might be properly discussed upon either of the propositions with which the committee had concluded, but he did not choose, himself, to notice more of it now than was pertinent to the matter before him.

Mr. W. said he must be permitted to remark, before he proceeded, that he had been wholly unable to feel or discover the necessity for the sombre and alarming picture of danger to our happy form of Government which the committee had thought it their duty to present. He could not feel that the safety or perpetuity of our institutions was peculiarly threatened at the present, more than at any former period of our history. On the contrary, he had supposed he could justly felicitate the Senate and the country upon the fact, which he had expected would have been admitted by all, that our condition was rapidly improving. No man in these seats had forgotten the picture drawn to our imaginations twelve months since; a picture which not only shocked us, but shocked this whole widely-extended country to a degree never before witnessed in the period of his recollection. Then, however, executive patronage was not the danger, but executive usurpation. The sword and the purse of the nation were in one hand, and our liberties were about to be cloven down. The fractured and broken pillars of the constitution were scattered before us, to display the ruin which had been made, and to warn us of the danger which impended.

That time and that danger had gone by. A distinct issue was formed and submitted to the sober and intelligent sense of the American people, and their decision had put an end to the agitation. Executive patronage was then a consideration too trifling to have a place in the leading discussions. Some mention of an army of forty thousand office-holders might have been made, but they were incidental and unimportant. Usurpation was the order of the day, and tyranny and despotism were upon us. Mr. W. said he supposed he might congratulate every patriot and lover of his country that this great danger had been passed, and its horrible evils averted, by the single and silent operation of an election; and he had hoped that increased confidence in the safety and durability of our institutions would have followed this gratifying experience. How different was the fact! He now found, in the report of the committee before him, abundant evidence—if the sad imaginings of the committee were facts—that we were much nearer final ruin than at the period to which he had alluded. Now, usurpations by the Executive had ceased to be dangerous, but the great patronage in the hands of the President was fast driving this fine ship of state upon the rocks, and imminently threatening the only free Government in the world with utter and irretrievable ruin.

Under this renewed attempt to excite alarm and apprehension in the minds of the peaceful citizens of the country, he felt it to be his imperative duty to proclaim an entire absence of the threatened dangers. The country was sound, and healthful, and prosperous, and happy, and the patronage of the Executive was not to corrupt its morals, endanger its peace, or destroy its liberties. The mistake of the committee had proceeded from the assumption of premises wholly erroneous, and the consequent deduction of unfounded conclusions.

Mr. W. said he would proceed to show this by a partial analysis of their principal fact, and by an exposition of the fallacious conclusions drawn from it. They state that the number of persons dependent upon the Government for support is one hundred thousand and seventy-nine, and they assume that all such persons are "supple instruments of power." This great number of persons, thus exhibited and thus characterized, was calculated to startle the mind. It had shocked him when he first heard the report read at the Secretary's table. He had heard much said, during the last year, both at home and here, by the opponents of the administration, of the danger to the country from an army of forty thousand office-holders, but his fears had not been excited, and he had never attempted to examine the composition of the corps. When, however, he found the number swelled by the report of the committee to more than one hundred thousand, he felt impelled to inquire who were these hundred thousand men paid by this free Government that they might wield public opinion to its destruction. He had made the inquiry, and to exhibit the results to the Senate and the country, and thus to repel the alarming implication of danger to our institutions which might otherwise arise from our action upon this bill, was the principal object he had in view upon the present occasion.

First, then, he found the whole army, officers, soldiers, waiters, and dependants, included in the list. And are the soldiers of our little army, said Mr. W., to be held up to the country as a body of men wielding its public opinion and directing it to the destruction of our institutions? Are they to be pointed at as objects of jealousy and apprehension? Where are they, Mr. President? Almost the whole body of them pushed beyond the line of settlement upon your frontier, and there stationed, the companions of the wild Indian only, to defend your citizens from the tomahawk and scalping knife. Are they, thus located, the body of men who are to bring this happy Government to a speedy termination? No, sir, they will defend it with their lives, but never will endanger it by their influence over public opinion. The officers of the army are also embraced in this class. They, sir, are office-holders, but are they formidable to the country? Are those brave men who bore the arms of the country, during the late war, against the most formidable enemy in the world, and bore them successfully, triumphantly, victoriously, are they to destroy this Government? Are they to be guarded against as "supple instruments of power," as "subservient partisans, ready for every service, however base and corrupt?" Mr. President, said Mr. W., they merit not the sentence. Where are they? Shut up in your fortifications and military posts, performing their dull and uninteresting round of official duty, or ordered beyond your frontier and deprived of the benefits of civilized society, to protect their fellow-citizens from rapine and plunder. Thus situated, are they to be held up to us as objects of alarm? Are our jealousies to be directed against them, as the persons likely to work out the full ruin of their country? Sir, the committee have made an egregious mistake as to these brave and patriotic officers. They will not destroy, but defend the Republic. Who has seen them mingling improperly in the political strifes of the day, or attempting unduly to influence public opin-

ion? Mr. W. said he had never witnessed such an instance of improper conduct in an officer of the army, and he was yet to learn that such instances had been witnessed by others. But another large enumeration of citizens aided to complete this division of the dangerous corps of more than one hundred thousand. All the contractors, workmen, and laborers, upon our public works in the charge of the War Department, such as fortifications, rivers, canals, roads, harbors, and all the other works of a similar description in construction at the expense of the Government, were counted to make up this formidable number of "supple instruments of power." Yes, Mr. President, said Mr. W., the humble carrier of the hod upon one of your batteries, who toils on for his daily allowance of a few shillings, unconscious of his agency, is one of the number of individuals whom the committee suppose material and dangerous agents in the work of ruin to the most free and happy Government upon the earth. Each laborer of this description is held to be a "supple instrument of power," a subservient partisan, "ready for every service, however base and corrupt." Sir, tell this to the great body of the yeomanry of this country, and what will they say of this danger? They will smile at the credulity of the committee, and say they are mistaken in their apprehensions. This closes the first class of the great catalogue, consisting of sixteen thousand seven hundred and twenty-two individuals.

2d. Mr. W. said he found the whole navy, including the marine corps, and comprehending altogether eight thousand seven hundred and eighty-four individuals. Here, again, was a class of men whom he had not been taught to consider "supple instruments of power," "subservient partisans, ready for every service, however base and corrupt." Sir, said he, are the gallant tars who bear the flag of our country proudly and triumphantly upon every sea, and to every corner of the globe, the mere "supple instruments of power?" Are the brave and fearless officers who command them "subservient partisans, ready for every service, however base and corrupt?" Is such the character of the officers of the American navy, and are they, at this moment, to be thus characterized to the American people, and to the world? Not, said Mr. W., by me. They deserve not the character, in my judgment, and they shall not receive it with my assent. Does any man believe, do the honorable committee believe, that, in consequence of the moderate compensation which these brave and high-minded and patriotic citizens receive for the devotion of their lives to the public service, they are prostituted to the executive will, and ready to do his bidding, to the injury and destruction of the liberties of their country? Do they believe that no higher and purer motive than subserviency to executive power has led them on to the noble achievements they have accomplished? If such be the opinions of the committee, they do the officers and seamen of our gallant navy great injustice. It is against the enemies of their country, not against their country, that they war, and war successfully; and long, long, will the liberties of our happy Republic be preserved, if they are only to meet their destruction from the hands of the American navy. But, sir, this class is not wholly composed of the officers, and sailors, and soldiers, attached to the navy and marine corps. Every person employed in and about your navy yards and ship yards is included in the enumeration. The humble individual who rolls the wheelbarrow and handles the cart, or drives the oxen, at these places, is magnified into a man dangerous to our liberties, holding a fearful control over public opinion, a "supple instrument of power," "ready for any service, however base and corrupt." Such dangers, said Mr. W., will never destroy this Republic.

3d. The whole roll of revolutionary pensioners, thirty-eight thousand eight hundred and thirty-six in number. This class, Mr. W. said, surprised him much more than the former. The departing shades of the revolutionary army were presented to us as about to become the instruments in the destruction of our liberties. Those venerable men, whose earliest, and greatest, and richest efforts had been devoted to the erection of this beautiful and noble temple of civil liberty, were now, for the pitiful compensation of $8 per month, to become the "supple instruments of power," to use their efforts to overthrow the fabric cemented with their youthful blood, and to draw its mighty ruins down upon their own heads at the last moment of their earthly existence. Would it be believed that this remnant of a noble race had been thus corrupted by such a bounty? No, said Mr. W., they deserve not such a judgment at our hands. But, instruments of the Executive! How? What has the Executive to do with the payment of pensioners? They derive their claims from the acts of Congress, not from the will and pleasure of the Executive; and if they make the proof requisite, the right is perfect. The President can neither place them upon the roll without the proof, nor debar them from it when the proof is made. His only interference with the subject is his approbation of the laws, as he approves other laws passed by Congress. As well, therefore, might all the private claimants, for whose benefit laws have been passed, be hunted from the statute books and added to the list of "supple instruments of power," as these venerable pensioners of the Revolution.

4th. Mr. W. said he now came to a class of office-holders and "supple instruments of power," not less extraordinary than any of the former. It consisted of all the deputy postmasters throughout the country, all the mail contractors, mail carriers, stage drivers, and all others employed in the transportation of the mail of the United States. The number was given in the report at thirty-one thousand eight hundred and thirty-seven individuals. Here was a class of men, with several of whom every citizen of the country must be personally acquainted. He appealed, then, fearlessly and confidently, to the people of the country, for the degree of danger to public liberty to be apprehended from this class of dependants upon the public patronage. Who did not know that the postmasters and mail contractors of the country were of all parties in politics, and of every description of sentiment and feeling as to men and measures? Who, in these seats, did not know that the great mass of them were men of respectability, integrity, and faithfulness, and worthy of the trusts confided to them? Who, heretofore, had feared the influence of these men upon the public opinion of the electors of the country? Who, until this day, had imagined that the driver of a mail coach would injuriously influence the opinions of the passengers who might chance to ride in his carriage? In this great mass of individuals there might be men unworthy of trust: it would be strange if it were not so; but did any man ever dream that they were so numerous as to endanger our Government, or that the merry holder of the reins and whip of the vehicle which transports the mail over our public highways, was a "supple instrument of power," a subservient partisan, "ready for every service, however base and corrupt," because his monthly wages were paid to him by a mail contractor? Did any man ever permit himself to believe that the elections of the States were controlled by such men? No, said Mr. W., the idea is mistaken: and the honorable committee have yielded themselves to fears which have no foundation, and to prophecies of evil which will not be realized.

He had then disposed of a very large proportion of this fearful array of more than one hundred thousand persons, dependent upon and receiving money from the

Government; and by that means supposed to be made "supple instruments of power," "subservient partisans, ready for every service, however base and corrupt."

The army, and persons employed under the superintendence of the War Department, were,	16,722
The whole navy, including the marine corps, were	8,784
The whole pension roll were	38,836
All the deputy postmasters, mail contractors, mail carriers, mail coach drivers, and all other persons connected with the transportation and distribution of the mail, were	31,837
Making a total of	96,179

So far, Mr. W. said, he thought the intelligent citizens of this country would be able to estimate the dangers to be apprehended from this alarming number of Government dependants with great accuracy; to value the benefits to themselves individually, and to the safety of the country and its institutions; to appreciate the tribute of justice rendered to those who had first broken the yoke of despotism, and given us the liberty we enjoy, and to weigh the objections against, and the reasons for, a continuance of the laws which had created these respective classes of officers, agents, and dependants.

The table appended to the report of the committee, and from which he had derived the preceding classifications, showed that 4,508 of this fearful array of 100,687 office-holders and dependants upon executive patronage remained to be accounted for. And here he found it necessary to notice an error in the addition of the table, by which the total number of persons intended to be exhibited, was less by 608 than the true number. Two items had been accidentally omitted, to wit: 119 persons employed in the Department of War in this city, and 489 pensioners upon the navy pension fund; so that the aggregate presented by the committee, was 100,079, while the number in fact, as shown by their own table, was 100,687. Who, then, composed the remaining 4,508 of these dangerous men, and "supple instruments of power?"

There appeared to be employed in the State Department in this city, and connected with and deriving their appointments from and through that Department, 456 persons. This number, Mr. W. said, he understood to include the Department itself, all our foreign ministers, diplomatic agents, consuls, and officers abroad of every description, and all the members of the federal Judiciary, district attorneys, marshals, and all other officers connected with the courts. He surely need not say that the persons employed in an office here could have little influence over the public opinion of the voters of the States, the individuals themselves not being entitled to a vote upon any national question, and their locations separating them from contact or associations with the citizens of the States. Much less could he consider it necessary to say that the officers and agents of the Government abroad were not to be suspected of exercising a dangerous influence over the opinions and wills of their fellow-citizens at home. There only remained, then, of this number, the federal Judiciary, and their district attorneys and marshals, to excite alarm or create apprehension.

From the same table furnished by the committee, it would be found that 3,824 persons were employed in connexion with the Treasury Department. This number is understood to include all persons engaged in the collection of the customs, all persons engaged in the survey and sale of the public lands, and in every other branch of the Treasury Department, including the Department itself. Here, Mr. W. said, he met with a description of officers towards whom the public attention had been particularly directed for the last year, as using their official situations to influence the electors of their respective districts. The officers of the customs and of the land offices have been broadly accused of these practices. Of the latter he knew nothing, but many of the former he knew personally and intimately. Every Senator must know personally a greater or less number of the officers of the customs, for every one must reside within some collection district. He called upon all, then, to state their knowledge of the malpractices of these officers, if such practices were known. For himself he should feel bound, as a sacred duty to his country, to present any such officer, if he was satisfied his conduct was unworthy of his trust; much more if it was calculated to corrupt the public morals, trammel the freedom of opinion of the electors, or endanger the liberties of the country. Would any Senator fail to pursue this course? Surely not. Still we had heard no such presentments from any quarter of the country; and ought not this single fact to be taken as strong evidence that these sweeping denunciations of a party press, and of partisan politicians, were unmerited by the officers against whom they were directed? Ought it not to be satisfactory evidence that our liberties are not endangered by these officers, so necessary and indispensable to the security of the revenue of the country? If this whole class of officers had become the "supple instruments of power," "subservient partisans, ready for every service, however base and corrupt," would not some Senator be able to name a single instance from the whole country? to present a single example to the public eye? Mr. W. said he could not feel alarm for the safety of the country while no single officer of the whole corps could be designated as guilty of the suppleness and subserviency which the committee seem to apprehend. So much for the persons employed in and connected with the Treasury Department.

In the Department of War, one hundred and nineteen persons are employed, as shown by the table. This number, Mr. W. said, he supposed to include the topographical bureau and the engineer corps, and he would inquire whether the principles and policy of this administration were such as to authorize the belief that an extension of the influence of this corps to the local and private interests of the citizens was intended? Had not both, in the discouragements of works of internal improvement of a local character, a direct and powerful tendency to circumscribe the power and influence of these engineers, and to debar them from an interference with the local inertests of the States? Such would seem to him to be the fair and just conclusion. Of the danger to be apprehended from the influence upon public opinion to be exerted by persons in the employ of the War Department in this city, he had nothing to add to his remarks in relation to persons similarly employed in the Departments of which he had before spoken.

The same table showed twenty-nine persons in the employ of the Navy Department, and eighty persons in the employ of the General Post Office, in this District. They are principally humble clerks, at very moderate salaries, and, he doubted not, respectable and industrious men, faithfully earning the money paid to them; and if the liberties of this country remained until destroyed by them, he must be permitted to express an entire confidence that alarm now was ill timed and uncalled for.

This, Mr. W. said, closed the fearful catalogue of office-holders and dependants, which had given to the reports its sad and boding aspect, and, thus analyzed, he hoped the danger, impending or in prospect, would appear less to the good and peaceable citizens of the country than it had to the honorable committee. The whole might be summed up as follows:

The four classes first mentioned, to wit: the army and person in civil employment under the superintendence of the Secretary of War, the navy and marine corps, the pensioners, and the postmasters, and the persons employed in the transportation of the mail, -	96,179
The persons employed in and connected with the State Department, including foreign ministers, consuls, and commercial agents; the judges of the Supreme, district, and circuit courts; the district attorneys, marshals, &c. -	456
The persons employed in and connected with the Treasury Department, including all officers and persons employed in the collection of the customs and the revenue service, all officers and persons employed in the survey and sale of the public lands, &c. &c. -	3,824
The persons employed in and connected with the War Department, - - -	119
The persons employed in and connected with the Navy Department, - - -	29
The persons employed in and connected with the General Post Office, - - -	80
Making the aggregate before given of -	100,687

Let these hundred thousand individuals stand before the intelligent people of our country in their true character, and let them say how far they are likely to undermine and destroy their liberties. For himself, Mr. W. said, he could feel no apprehension. He believed them, as a mass, an honor, and not a danger to the country; and so he thought they were, and would continue to be, viewed by the people. Here he would leave this most alarming assumption of the committee, and proceed to examine another, not less erroneous. The committee assume, without attempting to prove, that those hundred thousand office-holders and dependants can influence and direct the will of the American people; can control their action at the polls, and dictate the results of their free elections. Mr. President, said Mr. W., this is an assumption as violent as it is unfounded, and does great injustice to the inflexible integrity of our intelligent yeomanry. They, sir, controlled in the exercise of that right which they consider above all price, the right of giving a vote for the man who is to rule over them, by office-holders, by soldiers, sailors, laborers in the employ of the Government, mail contractors, mail carriers, and coach drivers, or by pensioners! No, sir, never. The idea does injustice to their integrity and intelligence. They are controlled by no earthly power in their exercise of that dearest right of a freeman; and the supposition that they are, is, to use the mildest term, a mistake of the committee of a glaring character. The thirteen millions of free people of this country controlled in their elections by a few thousand office-holders and dependants upon the Government! By a few of their own servants! No, sir. The American people are not thus "supple" and "subservient," whatever may be the character of those who receive their favors and bounty.

But is it fair to presume, from any known facts, that those holding office and patronage are inclined to influence the people for evil to the country? Mr. W. said he knew of no evidence to warrant such an assumption. That, among the great numbers holding office, bad men might be found, was more than probable; but he believed the exceptions would be so few, if the whole number were taken into the account, as to prove that good men generally hold the offices of trust, rather than to impeach the body of office-holders. This brought him to notice a third assumption of the committee, not less unfounded, in his judgment, and more violent and unjust, than either of the former.

Mr. W. said he referred to the assumption found in the report, that offices are bestowed "as rewards for partisan service, without respect to merit." This broad charge appears upon the face of this paper wholly unsupported by proof, or by an attempt at proof, against whom? Against a Chief Magistrate elected by the people; and, after an exercise of the appointing power for the term of four years, again re-elected by a much stronger expression of the public approbation than that which first elected him to the presidency. How, then, does this assumption comport with the respect we owe to the popular will? To the judgment and intelligence of those we represent here? To the free and intelligent people of this free country? But how, said Mr. W., are these office-holders selected by the Chief Magistrate? Upon the petitions and recommendations of the people themselves; upon certificates of character, respectability, and worth, made by those who are the neighbors and friends of the candidate, and know him personally and intimately; and most usually upon the recommendation of the representatives here of the person appointed. Are we then to assume that offices are "bestowed as rewards for partisan services, without respect to merit?" The people ask, the representative recommends, and the office is conferred, and who shall say that it is done "without respect to merit?" Surely this committee will not be sustained in making the assertion by that people whose will is followed in the appointments made, when the assertion rests upon itself alone, without an effort to support it by evidence. It is, Mr. President, said Mr. W., another of those mistakes into which the gloomy imaginations of the committee seem too frequently to have led them. These assumptions, as erroneous as they are unfounded, in his judgment appeared to him to constitute the reasons offered by the committee for the presentation of the bill now before the Senate. The abuses existing in the minds of the committee were those which had been examined, and the bill purported to provide for their correction for the future.

What, then, was the remedy proposed? A law of 1820 had limited the terms of a large class of officers therein named to four years, and had thus compelled those officers, once in that term, to pass in review before the President and Senate, when their characters and conduct, official and private, would of course be inquired into and examined, and when the state of their accounts with the Government would be ascertained. This law, too, was calculated to secure the cardinal republican principle of rotation in office, by causing periodical expirations of official terms, when those who had enjoyed a reasonable share of official patronage might give place to other citizens equally deserving, without resorting to the unpleasant alternative of a removal.

The first section of the bill reported by the committee, and now under consideration, proposes to repeal this law of 1820, and, by doing so, to make these offices perpetual or dependent alone upon the pleasure of the President. The latter would be the consequence, were it not that the third section of the bill virtually imposes restrictions upon the power of the President to remove from office; and, taken in connexion with the second section, would seem fairly to imply a design that the President shall remove for one cause alone—that of a defalcation in paying over or accounting for public moneys. If this be the tendency of this bill, and this, Mr. W. said, was his understanding, then its effect will be to give to the country district attorneys, marshals, collectors of the customs, naval officers, surveyors of the customs, navy agents, receivers of public moneys for lands, registers of the land offices, surveyors of the public lands, paymasters of the army, and commissaries general of purchases, for life, instead of the short term of four years; and nothing can remove the officer but his

becoming a public defaulter—a piece of official misconduct of which several classes of these officers, such as naval officers, surveyors of the customs, registers of the land offices, and the like, cannot be guilty, because no public money comes to their hands.

And what, Mr. President, said Mr. W., is the assigned cause for this great and dangerous change in the law? To destroy the patronage accruing to the Chief Magistrate by the simple renominations of these officers to the Senate once in the term of four years. Is Congress prepared to adopt such a remedy for such an evil? Will the members of this House consent to create an army of officers for life in this Government, for the single purpose of getting rid of the evil, if it be one, of the patronage conferred upon the executive power in their periodical reappointment? Mr. W. said he could not think so. He viewed the first section of the bill, standing by itself, as a question of policy only; but he must consider it contrary to the doctrines of the republican fathers, contrary to the genius of our free institutions, and contrary to the well-ascertained and well-established opinions of the great mass of the citizens of the United States, to adopt any measure of legislation calculated or intended to perpetuate office in the same hands. The offices of this Government should not be life estates, but public trusts; and to keep them so, they should return frequently to the people, or to such of their agents and representatives as have the power, by the constitution, to confer them. Without this, the salutary principle of rotation in office is gone, and we raise up an official aristocracy as dangerous to liberty as an hereditary one.

Mr. W. said he was not an advocate for executive power or official patronage. He would go as far as any one to limit such powers, where that could be done consistently with the constitution, and a safe and salutary administration of the Government; but to get rid of that portion of the executive patronage which consisted in the renomination to offices, the terms of which were now limited by law, and from which, as yet, he had seen no cause to feel alarm or apprehension, he could not agree to remove all limitation, and make the offices permanent. It would, in his judgment, be an attempt to avoid a possible danger by the voluntary adoption of a great and certain evil. Such (Mr. W. said) were his views upon the first section of the bill, and, unless changed by what might be subsequently offered in its favor, he could not give it his support.

As to the second section, he had not a remark to make. He fully acquiesced in the principle it contained, that public defaulters should be hurled from office, and that a knowledge of the fact was sufficient ground for instantaneous removal. If any Senators supposed that legislation was necessary to secure the practical application of this principle, imperatively and promptly, to every officer of the Government, he was not aware that he had any objection to make to this section.

His principal difficulty rested upon the third section of the bill. That section was in the following words:

"SEC. 3. *And be it further enacted*, That in all nominations made by the President to the Senate, to fill vacancies occasioned by removal from office, the fact of the removal shall be stated to the Senate at the same time that the nomination is made, with a statement of the reasons for such removal."

This provision in a law of Congress he believed to be in derogation of the constitution of the United States, and he could not, therefore, give it his vote. He had before said he was not an advocate for executive power or official patronage, but he was an advocate for the constitution, and for just so much power in every branch of the Government as that instrument had granted, and for no more in any branch, either executive, legislative, or judicial. The section did not, in terms, deny the power in the President to remove from office, but it proposed limitations upon the exercise of the power equivalent to the denial of its existence as a constitutional grant of power. Mr. W. said the question was one of the first importance and magnitude, and he did not propose to argue it at the present time, but was bound to give the grounds of his opinion that the provision was unconstitutional.

The constitution has said, "the executive power shall be vested in a President of the United States of America." This he understood to vest in the President all the executive power pertaining to the Government of the United States, and not otherwise granted by the constitution. He understood the power of appointment to office, and the power of removal from office, to be executive powers, and, therefore, to be vested in the President by this general grant, unless some other provisions of the constitution shall be found to take them from him, or to divide them between him and some other department of the Government. What other provisions bear upon the question? The two following:

1st. "He (the President) shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointment are not herein otherwise provided for, and which shall be established by law."

2d. "But the Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of Departments."

If, then, (Mr. W. said,) he was right in supposing that the power of appointment was an executive power, its existence in the President was qualified by the negative of the Senate, conferred by the clause first above quoted, and he could nominate, but could not appoint, but "by and with the advice and consent of the Senate." Still nothing in this clause affected the power to remove from office, unless by implication, of which he should have occasion hereafter to speak; and, therefore, that power, notwithstanding this clause, remained in the President, by virtue of the general grant, perfected and unqualified.

But the clause second above quoted might be held to qualify this power of removal, and therefore he referred to it to show that it did not affect the bill under consideration, or obviate its unconstitutionality. That clause gives to the Congress the power, by law, "to vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of Departments." It has been, and may further be, contended that this qualification of the executive power of appointment may also qualify the power of removal; and that when "the Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of Departments," they may prescribe the causes for, and restrictions upon, the removals of the officers so to be appointed in conformity, not to the constitution, but to the law. Mr. W. said he did not find it necessary to discuss this point, as the third section of the bill before him reached the removal of all officers, superior and inferior, and alike required from the President the causes of the removal, whether the office was of the one grade or the other. The provision proposed by the committee made no distinction between an ambassador or other public minister, or consul, or a judge of the Supreme Court, the officers enumerated in the constitution, a superior officer, a member of the cabinet, and an inferior officer, a surveyor of the customs, "established by law."

Again: the Congress had not yet, by law, vested the

appointment of any of the officers named in the first and second sections of the bill, "in the President alone, in the courts of law, or in the heads of Departments;" and until they had done this, the second clause referred to could have no operation to restrict the power of removal conferred upon the President by the constitution; that power, like the power of nomination, remaining in him under the constitutional grant as to all offices "which shall be established by law," until the Congress think proper to vest the appointment of inferior officers in himself alone, in the courts of law, or in the heads of Departments, and to affix by law the causes for, and the restrictions upon, the removal of the officers so to be appointed.

Neither of these qualifications upon the executive power granted to the President, then, (Mr. W. said,) seemed to reach the provision contained in the third section of the bill of the committee, and he was left to inquire whether any implication, from the executive power granted to the Senate, authorized the legislation proposed? The grant to the Senate, made in the constitution, was to advise and consent to nominations made by the President, or to refuse that advice and consent; and it had been argued by the honorable Senator from Massachusetts, [Mr. WEBSTER,] that this power necessarily drew after it the advice and consent of the Senate to removals from office. That honorable gentleman had stated that he had examined the practice of the Government, and that the only removal was the appointment of another to fill the place of the person removed. His argument was understood to be, that as the appointment of A to fill the office of B, removed, was the only removal of B, therefore, the appointment of A was the removal of B, and the appointment of A requiring the advice and consent of the Senate, this body must also be held as advising and consenting to the removal of B.

Mr. W. said he had not examined the practice of the Government in this respect, and therefore he could not say whether or not it had been customary, in cases of removals from office, to issue a *supersedeas*, the uniform practice, as he believed, in his own State; but he would ask the honorable Senator whether it had ever been supposed, when the President nominated A to an office in the place of B, removed, the rejection of the nomination of A by the Senate restored B to the office from which he had thus been removed by the President? Did not the Senate know that, in case of such rejection, the office had always, from the commencement of the Government under the constitution, been held to be vacant, and the President bound to continue to nominate to the Senate until he found a person to whose appointment they would advise and consent? Had he ever heard of an incumbent, thus removed, returning to the duties of his office in consequence of the rejection by the Senate of the nomination of his successor? Mr. W. said he was confident in the assertion that the history of the Government furnished no instance of such a claim to office, or of such an exercise of official powers. How, then, could the gentleman contend that the advice and consent of the Senate to the appointment of a successor had been held to be also an advice and consent to the removal of the incumbent? If the Senate did not advise and consent, the removal had ever been held to be perfect, and the office vacant; and therefore that advice and consent, when yielded, could not be held to make the removal. So much, Mr. W. said, for the argument in favor of the implied executive power existing in the Senate, to participate with the President in removals from office. It had not existed in the practice of the Government; it did not exist in the constitution; and he would leave it to those who made out the claim to point out its derivation.

He would again say that it was not his object to argue these great constitutional questions, and he had said thus much to declare his distinct and clear opinions. He held the power of removal from office to be an executive power, in the clear and universally admitted classification of governmental powers. As an executive power, he held it to be vested in the President by the broad grant of that power contained in the constitution, because no qualification found in that instrument, and no action of Congress under it, granting power to regulate the appointment of inferior officers, had taken it from him, as connected with the third section of the bill before the Senate.

Could Congress, then, by law, require from the President his reasons for an act performed in pursuance of the power granted to him by the constitution? He could not think it would be pretended. As well might Congress declare, by law, that the President should send, with every nomination he makes to this body, the reasons why he has selected the individual named. As well might Congress declare, by law, that the Senate should make a statement to the President of the reasons for their action upon his nomination. Each acts in the exercise of an independent constitutional power expressly conferred, and neither is responsible to the other for their action, but both are responsible to the people and the States.

So, in making removals from office, the President, if he has the power at all, possesses it as an express grant of the constitution, and he is responsible to Congress for its exercise in no other way than by impeachment, and then the causes should be assigned, if assigned at all, to the impeaching, and not to the trying, branch of Congress. He therefore could not view the section in any other light than as a direct and palpable violation of the constitutional powers and rights of the Executive; and, as such, he must oppose its passage. He would not, however, consume more of the time of the Senate, at this late stage of the session, in fortifying his position. He would content himself with the fact that the first Congress ever convened under the constitution had deliberately decided these questions of executive power as he now contended they existed. That Congress consisted of a large number, among others, of the framers of the constitution—men more competent than any other to form correct opinions as to its intended grants of power. It had been well said by the honorable Senator from Ohio, [Mr. EWING,] that this decision was made before the formation of political parties under the Government, and at a time when political partisan feeling could not have influenced the judgment of those who pronounced the opinion that the power of removal from office was an executive power, and was vested in the President. If proof of this fact, stronger than any other, could be required, it would be found in the record of that debate, which shows James Madison, the most distinguished democrat, and Fisher Ames, the most distinguished federalist, in that Congress, combining their unsurpassed talents and powers of eloquence in favor of the decision. General Washington, then President of the United States, and the president of the convention which formed the constitution, claimed and exercised this power during the whole of his administration. The elder Adams exercised it after him. The immortal Jefferson, the father of democracy, also claimed and exercised it freely during the eight years of his administration. After him James Madison and James Monroe exercised it for the period of sixteen years. The younger Adams then exercised it during his presidential term, and the present Chief Magistrate followed the examples thus set for him until the last year, without an intimation of a doubt as to the existence of the power as a constitutional grant.

Mr. W. said he would not remark further upon this

point. If gentlemen would show him that the power of removal was not an executive power, it might then be competent for them to charge him and his friends with attempting to claim power in the President by implication from the constitution, and not from express grant. He was the advocate for no implied powers in any department of the Government. He held this to be an executive power, expressly granted in the broad grant of that power to the President. So the Congress of 1789 had decided it to be, and so the practice of the Government, for almost fifty years, under the constitution had uniformly treated it, without debate or question.

He had now completed what he had proposed to say. His principal object had been to examine the facts from which the committee had drawn their frightful picture of danger to the country from executive patronage, and to point out what appeared to him their almost unmeasured exaggerations of inference and conclusion from their own premises. This he had considered it a duty he owed to himself, to the Senate, and to the country to do, and he had made the attempt, whether successful or not, the Senate would decide. He would merely add what he had before repeated, that he saw no cause for the great and peculiar alarm expressed in the report; he felt not that alarm himself, nor could he believe, if it had foundation, that we were to discharge ourselves and the country from it by making perpetual terms of office of all the officers who must receive their appointments upon the nomination of the President, and whose terms of office were now limited by law. Such a remedy would increase, but could not quiet his alarm.

Mr. WHITE, of Tennessee, then addressed the Senate to the following effect:

Mr. President: It was my fortune to be placed on the committee of nine, in the year 1826, whose proceedings have been spoken of in this debate. I am one of that committee who concurred in reporting the bill said to be similar to the one under consideration. I am now as ready to carry out the opinions then entertained as I was at that time, unless it can be shown Congress has no power to make the enactments, or that they would be injurious to society.

The number of officers employed in handling public money was necessarily very much increased during the war which terminated in 1814-'15. Although the President had the power to remove all the officers mentioned in this bill, yet it was believed, in the year 1820, it had not been exercised as frequently as the public interest required; officers who had collected money, which they ought to have paid into the treasury, and officers who drew money out of the treasury, which it was their duty to disburse, according to the requirement of acts of Congress, had, in many instances, failed in the performance of their duty; losses had been sustained, and more were feared, unless additional provisions were made; these circumstances gave rise to the act of 1820.

By this statute, at the end of every four years each of these officers is to be out of office, as a matter of course, without the exercise of any executive power whatever; and during four years, the President, if he pleases to do so, has the power of removing all, or any of them, from office. In carrying into effect the provisions of this act, it was expected, when the term of an officer expired, the President would inform himself, through the proper department, whether the officer had discharged his duty with fidelity; and if he was informed he had, that he would then renominate him for the same office for another term. I believe that the benefits expected from this law have been realized by the practice under it. Ever since I have had the honor of a seat on this floor, I affirm that, both under the past and the present administration, I have witnessed the strictest scrutiny into the conduct of these officers, whenever renominated; and I do not remember a single case in which there was a disposition manifested to continue any one of them who had been faithless in his trust. But in 1826, the committee believed, although much good had resulted from this law, yet, in the struggles for place and for power between parties, very great evils, which had not been foreseen, would in all probability be experienced. The whole of these officers, amounting to a vast number, all going out at the end of each four years, and being entirely dependent on the will of the President, whether their commissions should be renewed or not, would induce many of them to look more to their own situation and interest than to the welfare of the country; and, with a view to secure themselves, they would be most likely to conform their opinions to the wishes of the President, whoever he might happen to be. If he was a candidate for re-election himself, they would most likely vote for him; or if one of his friends was a candidate, they would vote for him, although they might conscientiously believe the best interests of the country would be promoted by the election of his opponent. It is no answer to this argument to say it casts reproach upon these officers to suppose they would surrender their opinions to those in power. Mr. President, is it a reproach to say they are men? Is it a stigma upon their character to say, that while they live in this world, that while they have families to provide for, they must have the means of living? We all know we are too apt to conclude that our neighbors will be pretty well provided for when we are very well provided for ourselves. Experience convinces us that when a man, who is dependent on his own exertions for a living, obtains one of these offices, he and his family manage well if they keep their expenditures within the salary. They become dependent on the quarter's salary for food and clothing. If deprived of the office, the man knows not to what to turn his hand to earn a dollar to subsist upon. To be deprived of the office is to be deprived of the only means of obtaining a living by honest means. Under such circumstances, it is most likely the officer will not give his judgment fair play; he will conform his opinions to the opinion of the man who has his all in his power; or, if he has manliness enough to form an impartial opinion of the merits of the respective candidates, he will too seldom have the fortitude to express it, either in conversation or by his vote. The probability is, that he will soon lose all that manly independence so essential to the preservation of a free Government.

But, Mr. President, this evil does not stop with the head of the family; the same tone of servile feeling is communicated to his whole family. It stops not with his wife and his children; it is communicated to his family connexions. They know the situation of the officer; he and they talk it all over in their family circle; they sympathize with him, and all know the feelings of the Executive will be the more kind towards him in proportion to his influence among his friends; and the result will be that, in most cases, they will all settle down in the conviction that it is most wise to think and vote as the President wishes. Very little reflection, I think, must satisfy us of the alarming extent of this influence in our elections. All district attorneys, all custom-house officers, all paymasters, all receivers of public moneys at your land offices, and all surveyors of your public lands, with their clerks and all their family connexions, placed in a situation to do as the President of the United States may wish; add to this the further consideration, that these men, from their official stations, each has vastly more influence among his acquaintances than he would have if he were a private man. Society, from the very situation of the officer, will suppose him a better judge of the fitness of a man for the presidential

chair than he would be if he were a private man; besides this, many will know that the officer will have it in his power to do them good turns in his office if they can secure his good opinion.

Now, let us suppose a President in office, possessed of the mass of influence thus collected, wishing to be elected a second term, when it was the interest of society to leave him out, and put some other person in; or let us suppose a President in for the last time, and wishing to designate some individual as his successor, who would not be the choice of a majority, if left free to act according to their unbiased judgment. What, then, would most probably happen? We might some time find that the President would not, in such a case, be contented with all these people simply thinking with him and voting with him; they must do more, on pain of not being renominated; they must each man do his best to influence as many to think, to speak, and to act with them as they can procure. Where could you find a man able to make a stand in opposition to it? Nowhere; and you would seldom find one willing to make the experiment. Every one must believe he could have no chance of success against such fearful odds. These officers and their friends would act in concert from one end of the Union to the other. They will have it in their power to pour out at once, through the whole body politic, a flood that would sweep from the purest man that lives every particle of reputation he had acquired by a long life of virtue and usefulness. In 1826, as one member of the committee, I came to the conclusion it was dangerous to leave such a power in the hands of the Executive, and through our chairman expressed that opinion to the world. I entertain the same opinion now, am prepared to reaffirm, and to act upon it. Then I was in opposition to the administration; now I am a friend to the administration. This can make no change in my course. When we have a pure and virtuous man for our Chief Magistrate, he will thank Congress to take from him every discretionary power which they can take with propriety. It will ease him of a labor and a responsibility most unpleasant to a good man, and he will still have as many discretionary powers as he will know how to exercise for the public good. If ever it should be our misfortune to have one of an opposite character, disposed to use all his powers for the benefit of himself and his friends, and for the purpose of perpetuating power in his and their hands, then society at large ought to thank us for stripping the Executive of this influence.

My opinions upon this subject are not founded upon the petty consideration of who is in power, whether he is a political friend or a political opponent; they rest upon the eternal principles of what I think is right and wrong between those who are in and those who are out of power. They are founded upon principles deep as the foundations of the Government itself—upon principles which, if disregarded, will poison the very fountain from which all the blessings of our free and happy Government flow. The elective franchise—corrupt that, place our citizens in such a situation that they will not freely form opinions for themselves, and fearlessly act upon them, and we will have little left worth preserving.

When called on to act my part, it is matter not to be considered by me whether my friends are in or out. In 1826, when called on for an opinon, my friends and myself were at the bottom of the political wheel. I then entertained and expressed an opinion. Now it has turned; my friends and myself are on its top; our opponents are at the bottom; where we may be with the next whirl no man can tell. As wise men, what ought we to do? We ought to act justly to all men, honestly carry out our own old opinions, and secure the people, as far as we can, in the free, uninfluenced exercise of their own opinions at elections. My principles are to limit power if we can, so as to make every man secure in voting for whom he pleases, as he is in matters of religion, in worshipping his Maker, according to the dictates of his conscience. When power is so limited that no man can so use it as to injure his opponents, then, and then only, do I consider myself safe. Some speak of this body as a permanent one; the situation in which we now find ourselves is another proof of the mutability of all temporary concerns. In 1826 I had the honor of being a member of the committee of nine, a majority of whom, at least, must have entertained opinions similar to my own upon this subject. Where are they now? Two only on this floor in a situation to be heard in this debate. You Mr. President, it is true, are present, and I am sorry, in a situation—no, I am not sorry you are in the honorable station you now occupy, but I am truly sorry we are deprived of the aid of your distinguished talents in this debate, if you entertain the same opinions as I do. We are not acting for ourselves alone; we are not acting for the people of our own time only: we are acting for the people at large of our own time, and for the people in all time to come. Let us, then, so act as will transmit, uncontaminated by official influence, to our posterity the free institutions for which our ancestors struggled, and which we received from them as an invaluable inheritance. This bill still will leave in the hands of the President power enough over all these officers. He will still have the power of dismissing any one of them at any moment he pleases. This is, of itself, a tremendous power, given him in trust, to be used for the public good, and for that only; never for mere difference of opinion, honestly entertained, decently expressed, and acted on with moderation.

The question recurs, how can Congress secure the citizen in office against an arbitrary exercise of this power, in cases where the public good does not require it? The committee have attempted it, in the third section, by providing that, whenever a nomination is made to the Senate to fill a vacancy occasioned by a removal, the President shall state the reasons for such removal. This, it has been contended, Congress has no power to do, because, say the opponents of this bill, all executive power is vested in the President by the constitution, and removal from office is an exercise of executive power.

The arguments upon this point are far from being satisfactory to my mind, and I must crave the indulgence of the Senate while I present, as briefly as possible, my own views upon it. It is true the constitution vests in the President the executive power; but immediately we ask ourselves what executive power? in what is it to consist? and where shall we ascertain its amount, and a specification of it? Is any gentleman, either here or elsewhere, prepared to state it as his opinion that, under our form of Government, executive power is unlimited and undefined? I hold no such doctrine, and it would appear to me a most wild and mischievous opinion.

The executive power, in our Government, in the President, is that vested in him by express grants in the constitution, or vested in him by acts of Congress passed in pursuance of the constitution, and no more. By the constitution "all legislative power therein (herein) granted is vested in Congress." By the same instrument the executive power is vested in a President. In this latter clause, the words "herein granted," used in the former, are dropped. The reason for dropping them is, to my mind, very obvious. If they had been used as to the President, he would have but a small portion of the powers necessary to be vested in him to carry on the affairs of the Government. The framers of that instrument foresaw that he must have many more powers than they could specify in the constitution, and, there-

fore, they say the executive power shall be vested in a President, intending that he should have and exercise all the powers they themselves afterwards might vest him with, and, also, all others which Congress might, from time to time, vest in him by laws passed in pursuance of the constitution. And afterwards they sum up his duties, by saying he shall see that the laws are faithfully executed.

Under these several clauses, the executive powers are easily ascertained. We first look into the constitution, and there see what powers are expressly given to him. Next we look to the acts of Congress, and there find what powers Congress has vested him with; and thus we ascertain his whole powers, and then we see that his duties are to see that all these powers are faithfully executed. It is as much his duty to see that a power vested in him by a constitutional law is faithfully executed, as it is to see that a power vested in him by the constitution is faithfully executed. Whatever powers are vested by the constitution Congress has no power to change; whatever powers they vest by statute, they may change and modify at pleasure. Any other notion of executive powers vested in the President, it seems to me, cannot be maintained under our frame of Government. By the constitution two classes of officers are evidently intended. In relation to one of these Congress is bound to create them, and, when created, the tenure of their office is fixed by the constitution, and can never be changed by act of Congress. As it relates to the other class, Congress may create the office, or not, as they please. In creating it, they may fix the tenure as they please—for life, for years, or at will; they prescribe what duties they please, and fix the compensation to suit their own pleasure; and they may point out the mode in which the officer is to be removed or displaced.

Every officer specified in the bill now under consideration falls within this latter class. They are what is called in the constitution "inferior officers, the appointment of whom Congress may vest in the President alone, in the courts of justice, or in the heads of the Departments." Congress, then, has complete power over all these officers; they may create and abolish the office at pleasure; fix and modify the tenure as they choose; and regulate at pleasure the mode of getting clear of the officers. They may either have them appointed, as they now are, by the President, with the advice of the Senate, or by the President alone, or by the courts of justice, or the heads of the Departments. Suppose this bill had provided that district attorneys should be appointed by the courts, to hold their offices during the pleasure of the court; but, when the court removed one and appointed another, they should put down the reason for the removal, would any gentleman say such provision was unconstitutional? I fancy not. Suppose all the other officers to be appointed by the Secretary of the Treasury, and him vested with the power of removal, but a provision inserted that, when he appointed a successor, he should state why he had removed the incumbent; would such a provision be unconstitutional? I think not. If such provision would not, in these cases, be unconstitutional, why will the like provisions be unconstitutional when the President is to appoint, with the advice and consent of the Senate? In each case it is a legislative enactment on a subject where Congress has express power to act as it pleases, without any limitation; the law, therefore, being constitutional, the President would be bound to see it faithfully executed. To me it appears so plain that Congress has the power to do what this bill proposes, that I feel some surprise there should be any variety of opinion among us upon this question.

Ours is emphatically a Government of laws. We are a free people because it is so. Whenever the will of the people is expressed, either in the constitution or in a law passed in pursuance thereof, it must be complied with, because, according to the theory of our Government, the people are sovereign. No person doubts, or can doubt, the power of the President to remove in these cases; but the manner in which he acquires this power is a different question. Gentlemen who argue against this section say he has it from the constitution, because it is an executive power. I deny this, and say it is an executive power because it is made so by statute; and he performs a constitutional duty when he removes, because he is as much bound to perform executive duties pointed out by statute as he is to perform those specified in the constitution. It is an executive power, because it was the will of the people, through Congress, as their agent, to make it so; and the same power, through the same agent, could have made it a judicial duty, if it had been deemed wise so to provide.

When our reason has fair play, it appears to me there can be no difficulty on this point. In 1789, as we have seen, Congress, by the casting vote of the Vice President, thought this power of removal was an executive power under the constitution. From that time to this all officers of this class hold their offices during the pleasure of the President, so expressed in the commission itself. Subsequent statutes, and especially that of 1820, speaking of these very officers being removed, and holding during pleasure, indicate removals by the President, and at his sole pleasure. If, then, the enactments of Congress authorize the removal, who can doubt of the power of the President to remove? But suppose, by this very bill, Congress should say these officers should hold their offices during good behaviour; what then becomes of this constitutional executive power? It is converted into a judicial power, and you have no way to remove the incumbent but by impeachment, or by an exertion of legislative power, in abolishing the office. If we suppose this power of removal conferred by statute, and not by the constitution, our whole course is consistent in our executive business. We have repeatedly refused to call upon the Executive for his reasons; and why? Because the statutes had vested the power of removal at his pleasure merely, and one branch of Congress alone had no power to require that which both branches had not seen fit to require.

Mr. President, these are the principles upon which I was prepared to act in 1826. They are those upon which I wished to bring into power the present Chief Magistrate. I speak only for myself, but I believed they were the principles of the party with which I acted, and that we were to give effect to these principles, so far as we might have the power. For one, I have seen no sufficient reason to change them, and am prepared to act them out. It is in vain to tell me this is a party question. It is a question of fundamental principles, and I am on that side of it in which I have been educated, on which I have heretofore acted as well as my humble abilities have enabled me; it is one I cannot abandon for any earthly consideration, because in its maintenance I believe the prosperity, happiness, and security of the present and succeeding generations have a deep and abiding interest. It is asked by the opponents of this bill, what benefit its friends expect from a statement of the reasons of the removal, when the nomination of a successor is presented to the Senate? I answer for myself, I wish to cut up by the roots the demoralizing tendencies of office-hunting. I wish to make such provisions, by law, as will shield the Chief Magistrate from impositions being practised upon him to induce him to remove men from office. I wish to shield him from being imposed upon as to the character of those who apply for office. As the law now stands, whenever a man

may cast a fancy for an office filled by his neighbor, all he has to do is to poison the mind of the Executive against the incumbent, and to make a favorable impression as to the fitness of him who desires to be the successor. These objects can be accomplished by making characters upon paper secretly. Before the officer is aware of it, his reputation is blasted by secret and confidential communications made by some of those he had esteemed his friends; they are lodged with the Executive, where it is expected they will remain secret; and, upon the strength of these representations, the officer is removed. When this is accomplished, the scuffle commences for a successor, and paper characters are procured for perhaps half a dozen applicants; and, very frequently, the individual having, in point of fact, the worst character of any in the group is so dressed up and supported by certificates as to convince the Executive the public interest will be promoted by selecting him as the successor, and he is nominated to the Senate. The business will not end here; all the disappointed applicants then go to work with Senators to defeat a confirmation of the nomination, each hoping, when that is done, he stands next best with the Executive, and will procure the office.

Under the present state of things, society will become demoralized; men will be constantly coveting that possessed by their neighbors; and, for the sake of procuring what they covet, they will bear themselves, and procure others, also, to bear false witness. Under the laws, as they now stand, the business of office-hunting will become a science. Men will be selected and furnished with funds to defray the expense of coming to Washington, for the purpose of having one set turned out and another set put in, by means of artful tales, secretly gotten up and reduced to writing, which it is supposed will never see the light. This officer and representative of office-hunters will come on with one pocket full of bad characters, with which to turn out incumbents, and the other filled with good characters, with which to provide for his constituents.

Pass this bill, and a wholesome check will be given to this whole system. Require the reasons for removal to be stated, and no man will dare to make a statement which he does not believe to be true, because exposure and disgrace will certainly be the consequence. You will take out of the hand of the cowardly assassin the poisoned dagger heretofore used in the dark. You will shield the Executive against mistakes founded on false representations. No Executive can be personally acquainted with the characters of all men in office, nor with the characters of those who desire office; he must act upon information derived from others; he ought, and I feel persuaded the present Chief Magistrate will, thank Congress for any plan by which he may be the better enabled to discharge his official duties to the welfare of society.

Another advantage to be derived from this bill is, that it will check the thirst for office, and will restore harmony to society. When a man is removed for want of capacity, for want of integrity, on account of intemperance, or a lack of business habits, why not put down the reason? Who is harmed by it? Nobody. Now, a man's reputation is stabbed in the dark; by whom, or in what manner, he is unable to find out. Pass this bill, and if a man is injured, he will know by whom, and in what manner, and can wipe out the stain, not by a controversy with the President, but by a controversy with the man whose falsehoods mislead the President.

Again, we will secure in all time to come honest officers, in the enjoyment of honest political opinions. No President will ever remove an officer simply because he will not think and act with him in politics, when he knows this reason is to be of record, and remain through all time. For myself, now, above all others, is the time when I wish to see this security furnished to honest men in office. I wish the credit of it for this administration. His anxious wish has been to restore to the States and to individuals what, in his judgment, they had been improperly deprived of by federal power; and I wish to see, in his day, a surrender of all means an unprincipled Chief Magistrate might use to influence the political opinions of men. I know him too well not to believe it would meet his hearty approbation; and, in time to come, when the historian shall record the beneficial acts of our illustrious men, I feel persuaded this act will not escape his attention.

Sir, the honorable Senator from South Carolina, in some of his remarks, has not done justice, as I think, to the Chief Magistrate. He says he came into power on the principles of reform and retrenchment, and that he was bound to carry them out; instead of which, the expenditures of the Government are doubled. Sir, he was not bound to do more than man could perform. One cause of an increase of expenditure in the Indian department has been fairly stated by the Senator from Missouri. It furnishes matter for praise; none for censure. How is it as to others? He has been against a tariff for protection merely; he has been opposed to the system of internal improvement; he has been against the bank; in short, he has been against the exercise of those constructive and doubtful powers which create so much discord among ourselves, and such heavy drains upon your treasury. He has enforced his opinions with an ability and zeal seldom either equalled or surpassed. Why, then, it is asked, has he not succeeded according to his wishes? Because he alone could not accomplish his wishes. I fearlessly appeal to every man who hears me, that, from the time he first came into power to this moment, he never had, at any one time, a majority in both Houses, frequently a majority in neither. Members come into Congress under one set of colors, and, when here, fight under another. At elections they get votes under the Jackson colors; when here, they are free and independent, and act upon such principles as they approve. Every man brings with him his vial of Xalessas' vegetable acid, and all he has to do is to touch his collar, as it is called, with a few drops, and off it falls. When he is called to the Jackson ranks, he is called in vain. Sound the Jackson whistle in Congress, and the Jackson men do not spring, as it were, out of the ground, to their post, like those of Rhoderic Dhu. They will not come; no note can be sounded so loud as to make them hear and attend. Instead of this, in defiance of his known wishes, they vote appropriation upon appropriation for roads and canals, and, not being able to vote enough to intimidate him in the course of six days of the week, they spend Saturday night, and until after sunrise on Sunday morning, apparently to create an influence they think he dare not resist. Firm as a rock, he stood upon his principles; he used his only power, the veto, again and again. What then? He is charged with being a tyrant, a despot, for no other offence but using his only power to check these very expenditures now complained of.

I appeal to those in Congress from 1829 till now, whether, among the most able advocates for internal improvements, there were not some professing to be, and I have no doubt sincerely, decided friends of his administration? Why, then, should he be censured for an increase of expenditures which he had most anxiously endeavored to prevent, and which, to a very great extent, he has actually prevented, under circumstances where no other man would have dared to set up his individual opinion against the expressed will of the majority in the Senate and House of Representatives.

Sir, his friends in Congress have been of all shades,

colors, and names; Jackson tariff and anti-tariff; internal improvement and anti-internal improvement; bank and anti-bank; and although he had, at the election grounds, a party large enough in his name to bear down all before them, yet here he never had a party large enough to do any thing. I remember once, when one of these great questions was debating, I was walking behind the colonnade where you now sit, and a brother Senator of different politics joined me; he asked me how I thought the question under discussion would be decided. I told him I did not know. Why, says he, don't you know how your party will vote? I answered that I did not; when I tried to count them I was always reminded of an anecdote I had heard of a black man, who had been sent by his master on a cold morning to feed the pigs. When he returned, his master addressed him, "Peter, were all the pigs up to be fed?" "Don't know, massa," says Peter. "Why, didn't you count them?" says the master. Says Peter, "I did count 'em all, massa, but one little spotted fellow, and he kept such runnin about I couldn't count him."

Mr. President, I hope to hear no more such complaints. Gentlemen on this floor are not aware of the credit to which the Chief Magistrate is entitled for the stand he took against friends and opponents, in maintenance of the great principles upon which he was brought into power. For myself, I endeavor to act upon those for which I have ever contended. I hope, on this question, still to be, when the vote is taken, with my political friends; but whether I am with them or not, I shall be with my political principles—with principles which I think of so much importance to the country that I hope never to live to see the day when I can record my vote against them, simply because the Chief Magistrate may happen to be the man of my choice.

When Mr. WHITE had concluded his speech,

The bill was reported to the Senate, and the yeas and nays were ordered on the question of its engrossment for a third reading.

The question was then taken and decided as follows:

YEAS—Messrs. Bibb, Black, Clay, Calhoun, Ewing, Goldsborough, Kent, King of Geo., Leigh, Linn, McKean, Mangum, Moore, Naudain, Poindexter, Prentiss, Preston, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, White—26.

NAYS—Messrs. Brown, Buchanan, Grundy, Hendricks, Hill, Kane, King of Ala., Knight, Morris, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Wright—15.

So the bill was ordered to a third reading.

On motion of Mr. POINDEXTER,

The Senate adjourned.

TUESDAY, FEBRUARY 17.

Mr. PRENTISS offered the following resolution:

Resolved, That the resolution passed on the second day of February instant, requesting the President to communicate to the Senate the correspondence between the Governments of the United States and Spain, in the negotiation of the late treaty between the two Governments, and the instructions connected therewith, was intended to be restricted, and hereby is restricted, to the correspondence and instructions during the official term of the present minister of the United States to Spain.

Mr. P. stated that a resolution in reference to this subject had been offered by him some time since. He had been informed that the Department had put a construction on the resolution which required it to extend its search back for several years, and would consequently be productive of great labor and consumption of time. After a conversation with the head of the Department, he had come to the conclusion that the best way to prevent this labor and delay would be to offer this resolution. He hoped that the Senate would agree to consider the resolution at this time.

The resolution was then agreed to.

ELECTION OF PRINTER.

The resolution offered yesterday, appointing Thursday next to go into the election of a printer, being taken up,

Mr. PRESTON adverted briefly to the joint resolution offered by the Senator from Missouri, which had been referred to the Committee on the Judiciary, and from which that committee had been discharged. In the investigation of that subject, he had looked into the practice of the Senate as regarded the election of a printer, and he had discovered that this was about the ordinary period of proceeding to an election. As this was the ordinary time for electing a printer, he had been induced to offer the resolution. On reference to the journal of the last Congress, he found that, within a day, the election then took place at the same period of the month. If, therefore, the Senate should determine to proceed to the election of printer, this, according to its former practice, was the usual and proper time for going into it.

Mr. CLAY said that he had not examined the journals, and he was not therefore prepared to say that the Senator from South Carolina was not perfectly correct; but he was not himself prepared to say, at this moment, that Thursday was the proper day to proceed to the election. He would, therefore, move to lay the resolution, for the present, on the table.

Mr. CLAY withdrew his motion, and

Mr. BENTON argued that the report of the committee of 1819 showed, on its face, that the joint resolution then adopted was a temporary measure, adopted merely for one election. Yet, although this fact was apparent on the face of the resolution itself, it had been suffered to control all the subsequent practice of Congress. Congress, in 1819, found it necessary to establish a tariff of prices, and a temporary provision was adopted, because there was not time to mature a plan. The committee had reported a mode for the ensuing election of a printer. It was only intended for the regulation of that single election, and, under this joint resolution, making provision for one election, we had gone on for fifteen years. [Mr. BENTON here read extracts from the joint resolution.] Four or five years ago another joint resolution was passed, for the purpose of altering the original one, so far as to require that the election of a printer should be made by a majority, instead of a plurality of the members. That was the only alteration. We had, therefore, been holding the elections of printer for fifteen years without any authority. During all that time we had been in the practice of electing an officer for the Congress which was to sit here after we had gone. We had no right to appoint such an officer; and the officer so appointed had no right to take upon himself the duties without the acquiescence of the Congress for which he was elected. We had no right to make an election, and we had been going on under a tariff of prices which had been fixed for two years alone, without reference to whether the prices of printing had, in the interval, been higher or lower than at the time of the adoption of the resolution.

The committee of 1819 had reported three distinct modes of executing the printing. The first mode was the same as had been practised under the joint resolution of 1815, by which the Secretary of the Senate, and the Clerk of the House of Representatives, had the work executed by contract. The second mode reported on was by a national printing office, with a bindery and stationary attached, which should execute the work of Congress during their sessions, and the work of all the

executive departments during the recess. [Here Mr. BENTON read the estimates made by the committee of 1819 of the expenses of the Government for printing, binding, and stationary.] The committee were of the opinion that such a national establishment, under the management of a competent, active, and upright man, would secure more promptitude, uniformity, a better style of work; and, in connexion with the bindery and stationary, would be the most economical. But the committee had refrained from submitting a proposition in conformity with the suggestion, on account of the novelty of it, of the late period of the session, and of the discussion to which it must inevitably lead. The third mode, and that which, under all the circumstances, the committee had recommended, was the joint resolution prescribing a tariff of prices for the printing, to continue in force for two years only. He had read the joint resolution and report, for the purpose of reminding the Senate of the course taken by the committee of 1819, and of the character of the resolution out of which had sprung the loose and illegal practice of electing a printer for the next Congress, and the continuation of the tariff of prices fixed in 1819, notwithstanding any changes which might have taken place since that period.

Mr. PRESTON rose to say a word. He expressed his entire willingness in regard to the printing of the Senate, or any other subject concerning which a charge of extravagance had been made, to go into an investigation in the spirit of reform and retrenchment. He would be willing to act with any committee in the examination of such a charge, whether it had reference to the general printing of the Senate or the particular conduct of the printer. There was one portion of the Senate which was inclined to check the growth of executive patronage, and another portion which seemed to be zealous to curb what they deemed legislative and senatorial extravagance. By a mutual indulgence of each other's wishes on these points, and by conceding to each other a little, a great deal of good might result to the country. But he did not think that, in looking into the expense of the printing, we ought to confine ourselves to this or the other branch of the Legislature, but that we should also look to the printing of the executive departments. If it was conjectured that the printing of the two Houses had increased so much within the last few years, it was not to be doubted that the printing of the executive branch had increased still more. Since the year 1819 the expenses of all the Departments had gone on in about the same ratio of increase. Whatever difference of opinion might exist as to matters of detail, it was generally admitted that there had been a considerable increase of the printing. While this was not the less to be deplored, it must diminish the surprise of gentlemen at the facts stated by the Senator from Missouri.

It had been said that the joint resolution of 1819 was only intended to be operative for two years, and we had improperly continued to act upon it. If so, it was, in his opinion, the greatest proof of the propriety of the resolution, that, by the unanimous acquiescence of all parties, it had been received as the rule of action for the last fourteen years. This alone would have been to him a sufficient authority to go into the election. But he believed that the Senator from Missouri had mistaken the purport of the joint resolution. The terms in which it was expressed were indeed loose, and might lead to mistake. But the context shows that the measure was not a temporary one, and that the printing was to be done in the manner prescribed, until otherwise ordered. Taking this context, in concurrence with the general acquiescence, he should feel no hesitation in conforming to the practice which had so long prevailed. But he would call the attention of the Senator to another part of the subject. After a lapse of ten years, in the year 1829, the question arose as to the change of the plurality for the majority, and then another proposition was inserted, which rendered the joint resolution permanent. To establish these points, the joint resolution of 1829 provided, first, that the election should be made by a majority, and, secondly, that this mode of election should be a permanent measure. [Mr. PRESTON here read a clause of the joint resolution of 1829, which extends its provisions to all time hereafter.]

This clause, therefore, placed the matter beyond all doubt. Congress, it was true, had the power to rescind this joint resolution; but, so long as it was unrepealed, they were bound to act in obedience to its provisions, by which we are compelled to go into an election within thirty days previous to the termination of the session. If the printer were an officer of the Senate, it might be a question whether the House could elect an officer for the next House of Representatives; but the Senate was a permanent body, and that objection would not be applicable to it. But he could not regard the printer as an officer of the Senate, because he was not liable to be punished by the Senate, nor was he under its orders; but was merely an agent of the body for the execution of a certain contract made between them.

He expressed a hope that the Senator from Kentucky would fix a day when he would be prepared to go into the election.

Mr. CLAY rose and said that he could not concur exactly with the Senator from South Carolina, in all which had fallen from him in reference to the charge of extravagance of printing. It was possible that there had been some increase in the printing of Congress; he was inclined to think that there had been an increase, and probably a considerable one, within the last ten or twelve years. But it was the cause of this extravagance of printing, respecting which the Senator from South Carolina had omitted some remarks which should have accompanied his statements. And what was this cause? The increase which had taken place was attributable to the abuses of the administration. That was the cause, and it ought not to surprise any one that the friends of the administration should get up and oppose any printing which was calculated to disseminate the knowledge of these abuses among the people. The less the printing that was done, so much the better for them. Of the report last year, concerning the General Post Office, there had been printed by the Senate 30,000 copies; but the honorable Senator from New York, he feared, had suffered his *quota* of these reports to remain in his office. There had been printed 30,000 of these reports here, and 50,000 by the House of Representatives. That was the cause of the great mass of printing; and the misfortune was that the increased printing could not keep up with the increased abuses.

As to the General Post Office, was it believed that if the committee could have penetrated into the recesses of the Department, instead of merely penetrating the crust, the printing would not have been much more voluminous? The Postmaster General refused to open the doors. He held the key, and the consequence was, that the committee could not get at more than half the truth. If they could have succeeded in ferreting out all the abuses of the administration, the printing would have been so considerable that the friends of the administration would have had more reason still to get up and talk of extravagance in more doleful strains. This, then, was the main cause of the printing being so considerable. Sometimes, it was true, that matters were ordered to be printed, which were not proper to be printed; but there were others where matters which ought to be printed were not printed.

He had no intention to go into a protracted discussion, but had thought it necessary to say thus much in refer-

ence to the cause of the printing. He renewed his motion to lay the resolution on the table.

Mr. PRESTON expressed a wish that the Senator from Kentucky would fix a day to go into the election.

Mr. CLAY replied that he was not, at present, prepared to do this. To be very candid with the Senator from South Carolina, he was not willing to go into the election in this body, until the other branch of the Legislature should have acted on the matter. But he would, in the most friendly manner, notify the Senator from South Carolina, as soon as he was prepared for the election.

Mr. PRESTON gave notice that he would move, on Tuesday next, to take up the resolution.

The motion to lay on the table was then agreed to.

Mr. BENTON then gave notice that, before the day named, he would ask the Senate to consider his joint resolution to repeal the joint resolution of 1819. He then moved that the report of the committee of 1819 be reprinted, and the motion was agreed to.

EXECUTIVE PATRONAGE.

The bill to repeal the first two sections of the act of 1820, commonly called the four years' law, came up on its final passage, the question being on the passage of the bill to repeal the first and second sections of the act to limit the terms of office of certain officers therein named.

Mr. BUCHANAN said it was with extreme diffidence and reluctance that he rose to address the Senate on the present occasion. It was my intention (said he) to suffer this bill to pass, contenting myself with a simple vote in the negative. This course I should have pursued, had the constitutional question been fully discussed by any gentleman on our side of the House. As this has not been done, I feel it to be a duty which I owe to those who sent me here, as well as to myself, to express my opinion on the subject, and the reasons on which that opinion is founded.

The present bill presents a most important question concerning our fundamental institutions. It attacks a construction of the constitution of the United States which has been considered settled for almost half a century. Has the President, under the constitution, the power of removing executive officers? If any question can ever be put at rest in this country, this, emphatically, ought to be considered that one. It was solemnly settled in 1789, by the first Congress of the United States. Of whom was that Congress composed? Of the men who had sustained the toils and dangers of the revolutionary war—of the men who sat in the convention which framed the constitution, and who passed from that convention into the first Congress. These men, who laid the foundations of our Republic broad and deep, most solemnly and deliberately decided that to the President, and to him alone, belonged the power of removal. This was not a moment when the country was convulsed by party spirit. Very far from it. The fathers of the Republic were then occupied in putting the Government in motion, and in establishing such principles as might preserve the liberties and promote the best interests of the American people for ages. In what condition are we, at the present moment, to rejudge the judgment of these men, and reverse their solemn decision? Is not party spirit raging throughout the land? Are there not high party feelings in this body? Are we in a condition calmly and deliberately, without prejudice and without passion, to review and to condemn their judgment?

Why, sir, even if there were no authority in the constitution for the power of removal, the decision of this body, at this time, would have but little influence among the people. They would compare the calmness, the self-possession, the freedom from political excitement, of the sages who established the precedent, with the party violence and the high political feeling of the Senate at the present day; and the weight of authority would be all against us.

The debate in the first Congress was very long and very able. Every argument which patriotism and ingenuity could suggest was exhausted. The question was at length decided in the House of Representatives on the 22d June, 1789. On the yeas and nays, thirty voted in the affirmance of the President's power of removal, and eighteen against it—a large majority, considering the comparatively small number of which the House was then composed.

The question arose on the bill to establish the Department of Foreign Affairs. It contained a clause declaring the Secretary of State "to be removable from office by the President of the United States." From this clause it might have been inferred that the power of removal was intended to be conferred upon the President by Congress, and not acknowledged to exist in him under the constitution. To remove every difficulty—to place doubt at defiance in all future time—the words "to be removable from office by the President of the United States" were stricken from the bill, and this right was expressly acknowledged to exist independently of all legislation. By the second section of the bill, which became a law on the 27th July, 1789, it is declared that "the chief clerk in the Department of Foreign Affairs," whenever the principal officer shall be removed from office by the President of the United States, or in any other case of vacancy, shall, during such vacancy, have the charge and custody of all records, books, and papers, appertaining to the said Department." Here, then, is a clear, strong, distinct recognition, by the House of Representatives, of the President's power of removal, not by virtue of law, but under the constitution. This phraseology was carefully adopted for the purpose of putting this very question at rest for ever, so far as Congress could effect this purpose.

The bill, having passed the House of Representatives, was sent to the Senate for their concurrence. The power of removal was there solemnly considered. This was the very body which, according to the doctrine of gentlemen, has a right to control this power; and yet they affirmed the principle that it was vested in the President, and in him alone. It is true that the question was determined by the casting vote of Mr. Adams, then the Vice President: but the act was approved by General Washington, and the power has ever since been exercised without dispute by him and his successors in office, until after the election of the present President. Washington, the elder Adams, Jefferson, Madison, Monroe, and the younger Adams, removed whom they pleased from office; but, after the accession of Jackson, the existence of this power is denied. We are now required to believe that all which former Presidents have done was wrong; that the first Congress were entirely mistaken in their construction of the constitution; and that the President does not possess the power of removal, except with the concurrence of the Senate.

If ever a question has occurred in the history of any country, which ought to be considered settled, this is that one. A solemn decision at first, adopted in practice afterwards by all branches of the Government, for five-and-forty years, makes the precedent one of almost irresistible force.

What, then, have we a right to expect on our side of the House from the opposition? Not merely that they shall prove it to be a doubtful question, but that they shall present a case so clear as to render it manifest that all which has been done has been without authority, and

all the removals which have ever been made have been in violation of the constitution. The burden rests entirely upon the gentlemen, and a ponderous load they have to sustain.

But, sir, if the question were entirely new, if it never had been decided either by precedent or by practice, I think it may be made abundantly clear that the strength of the argument is greatly on the side of those who maintain the power.

What is the nature of the constitution of the United States? The powers which it devolves upon the Government are divided into three distinct classes, the legislative, the executive, and the judicial. To preserve the liberties of any country, it is necessary that these three branches of Government should be kept distinct and separate as far as possible. When they are all united in the same person, this is the very definition of despotism. As you approximate to this state of things, in the same proportion you advance towards arbitrary power. These are axioms which cannot, which will not, be denied.

Doubtless, for wise purposes, the framers of our constitution have, in a very few excepted cases, blended these powers together. The Executive, by his veto, has a control over our legislation. The Senate, although a branch of the Legislature, exercises judicial power in cases of impeachment. The President nominates, "and, by and with the advice and consent of the Senate," appoints all officers, except those of an inferior nature, the appointment of which may be vested by Congress "in the President alone, in the courts of law, or in the heads of Departments."

Now, sir, my position is, that when the constitution of the United States, in a special case, has conferred upon the Senate, which is essentially a branch of the Legislature, a participation in executive power, you cannot by construction extend this power beyond the plain terms of the grant. It is an exception from the general rule pervading the whole instrument. Appointment to office is, in the strictest sense, an executive power. But it is expressly declared that the assent of the Senate shall be necessary to the exercise of this power on the part of the President. The grant to the Senate is special. In this particular case, it is an abstraction from the general executive powers granted under the constitution to the President. According to the maxim of the common law, *expressio unius est exclusio alterius*—it follows conclusively that what has not been given is withheld, and remains in that branch of the Government which is the appropriate depository of executive power. The exception proves the rule. And the grant of executive power to the Senate is confined to appointments to office, and to them alone. This necessarily excludes other executive powers. It cannot, therefore, be contended, with any force, as the gentleman from Massachusetts [Mr. WEBSTER] has contended, that because the consent of the Senate is made necessary by the constitution to appointments of officers, that therefore, by implication, it is necessary for their removal. Besides, these two things are very distinct in their nature, as I shall hereafter have occasion to demonstrate.

But to proceed with the argument. I shall contend that the sole power of removing executive officers is vested in the President by the constitution. First, from a correct construction of the instrument itself; and, second, even if that were doubtful, from the great danger resulting to the public interest from any other construction.

The constitution declares, in express language, that "the executive power shall be vested in a President of the United States." Under these general terms I shall, once for all, disclaim the idea of attempting to derive any portion of the power of the Chief Magistrate from any other fountain than the constitution itself. I therefore entirely repel the imputation, so far as I am concerned, which would invest him with executive powers derived from the prerogatives of the Kings or the Emperors of the old world. Such arguments are entirely out of the question.

The constitution also declares that "he shall take care that the laws be faithfully executed." These two clauses of the constitution confer the executive power on the President, and define his duties. Is, then, the removal from office an executive power? If it be so, there is an end of the question; because the constitution no where declares that the Senate, or any other human tribunal, shall participate in the exercise of this power. It will not be contended but that the power of removal exists, and must exist, somewhere. Where else can it exist but in the Executive, on whom the constitution imposes the obligation of taking care that the laws shall be faithfully executed? It will not be pretended that the power of removal is either of a legislative or judicial character. From its very nature it belongs to the Executive. In case he discovers that an officer is violating his trust—that, instead of executing the laws, his conduct is in direct opposition to their requisition—is it not, strictly speaking, an executive power to arrest him in his career, by removing him from office? How could the President execute the trust confided to him, if he were destitute of this authority? If he possessed it not, he would be compelled to witness the executive officers violating the laws of Congress, without the power of preventing it.

On this subject it is impossible for me to advance any thing new. It was exhausted by Mr. Madison, in the debate of 1789, in the House of Representatives. I am confident the Senate will indulge me whilst I read two extracts from his speeches on that occasion, delivered on the 16th and 17th June, 1789. The first was delivered on the 16th June, 1789, and is as follows:

"By a strict examination of the constitution, on what appears to be its true principles, and considering the great departments of the Government in the relation they have to each other, I have my doubts whether we are not absolutely tied down to the construction declared in the bill. In the first section of the first article it is said that all legislative powers herein granted shall be vested in a Congress of the United States. In the second article it is affirmed that the executive power shall be vested in a President of the United States of America. In the third article it is declared that the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish.

"I suppose it will be readily admitted that, so far as the constitution has separated the powers of these great departments, it would be improper to combine them together; and, so far as it has left any particular department in the entire possession of the powers incident to that department, I conceive we ought not to qualify them further than they are qualified by the constitution. The legislative powers are vested in Congress, and are to be exercised by them uncontrolled by any other department, except the constitution has qualified it otherwise. The constitution has qualified the legislative power, by authorizing the President to object to any act it may pass, requiring, in this case, two-thirds of both Houses to concur in making a law; but still the absolute legislative power is vested in Congress with this qualification alone.

"The constitution affirms that the executive power shall be vested in the President. Are there exceptions to this proposition? Yes, there are. The constitution says that, in appointing to office, the Senate shall be as-

sociated with the President, unless, in case of inferior officers, when the laws shall otherwise direct. Have we a right to extend this exception? I believe not. If the constitution has vested all executive power in the President, I venture to assert that the Legislature has no right to diminish or modify his executive authority."

Again:

"The doctrine, however, which seems to stand most in opposition to the principles I contend for, is, that the power to annul an appointment is, in the nature of things, incidental to the power which makes the appointment. I agree that, if nothing more was said in the constitution than that the President, by and with the advice and consent of the Senate, should appoint to office, there would be great force in saying that the power of removal resulted by a natural implication from the power of appointing. But there is another part of the constitution, no less explicit than the one on which the gentleman's doctrine is founded: it is that part which declares that the executive power shall be vested in a President of the United States.

"The association of the Senate with the President in exercising that particular function, is an exception to this general rule; and exceptions to general rules, I conceive, are ever to be taken strictly. But there is another part of the constitution which inclines, in my judgment, to favor the construction I put upon it. The President is required to take care that the laws be faithfully executed. If the duty to see the laws faithfully executed be required at the hands of the Executive Magistrate, it would seem that it was generally intended he should have that species of power which is necessary to accomplish that end. Now, if the officer, when once appointed, is not to depend upon the President for his official existence, but upon a distinct body, (for where there are two negatives required, either can prevent the removal,) I confess I do not see how the President can take care that the laws be faithfully executed. It is true, by a circuitous operation, he may obtain an impeachment, and even without this it is possible he may obtain the concurrence of the Senate for the purpose of displacing an officer; but would this give that species of control to the Executive Magistrate which seems to be required by the constitution? I own, if my opinion was not contrary to that entertained by what I suppose to be the minority on this question, I should be doubtful of being mistaken, when I discovered how inconsistent that construction would make the constitution with itself. I can hardly bring myself to imagine the wisdom of the convention who framed the constitution contemplated such incongruity."

But, sir, if doubts could arise on the language of the constitution itself, then it would become proper, for the purpose of ascertaining the true meaning of the instrument, to resort to arguments *ab inconvenienti*. The framers of the constitution never intended it to mean what would be absurd, or what would defeat the very purposes which it was intended to accomplish. I think I can prove that to deprive the President of the power of removal would be fatal to the best interests of the country.

And, first, the Senate cannot always be in session. I thank Heaven for that. We must separate and attend to our ordinary business. It is necessary for a healthy political constitution that we should breathe the fresh and pure air of the country. The political excitement would rise too high if it were not cooled off in this manner. The American people never will consent, and never ought to consent, that our sessions shall become perpetual. The framers of the constitution never intended that this should be the case. But once establish the principle that the Senate must consent to removals, as well as to appointments, and this consequence is inevitable. A foreign minister in a remote part of the world is pursuing a course dangerous to the best interests, and ruinous to the character, of the country. He is disgracing us abroad, and endangering the public peace. He has been intrusted with an important negotiation, and is betraying his trust. He has become corrupt, or is entirely incompetent. This information arrives at Washington, three or four days after the adjournment of Congress on the 3d of March. What is to be done? Is the President to be entirely powerless until the succeeding December, when the Senate may meet again? Shall he be obliged to wait until the mischief is entirely consummated--until the country is ruined—before he can recall the corrupt or wicked minister? Or will any gentleman contend that, upon every occasion, when a removal from office becomes necessary, he shall call the Senators from their homes throughout this widely extended Republic? And yet, this is the inevitable consequence of the position contended for by gentlemen. Could the framers of the constitution ever have intended such an absurdity? This argument was also adverted to by Mr. Madison.

But again, there are great numbers of disbursing officers scattered over this Union. Information is received, during the recess of the Senate, that one of them in Arkansas or at the Rocky mountains has been guilty of peculation, and is wasting the public money. Must the President fold his arms, and suffer him to proceed in his fraudulent course, until the next meeting of the Senate? The truth is, that the President cannot execute the laws of the Union without this power of removal.

But cases still stronger may be presented. The heads of Departments are the confidential advisers of the President. It is chiefly through their agency that he must conduct the great operations of Government. Without a direct control over them, it would be impossible for him to take care that the laws shall be faithfully executed. Suppose that one of them, during the recess of the Senate, violates his instructions, refuses to hold any intercourse with the President, and pursues a career which he believes to be in opposition to the constitution, the laws, and the best interests of the country. Shall the executive arm be paralyzed, and, in such a case, must he patiently submit to all these evils until the Senate can be convened? In time of war the country might be ruined by a corrupt Secretary of War, before the Senate could be assembled.

It is not my intention on this occasion to discuss the question of the removal of the deposites from the Bank of the United States. I merely wish to present it as a forcible illustration of my argument. Suppose the late Secretary of the Treasury had determined to remove the deposites, and the President had believed this measure would be as ruinous to the country as the friends of the bank apprehended. If the Secretary, notwithstanding the remonstrances of the President, had proceeded to issue the order for their removal, what should we have heard from those who were loudest in their denunciations against the Executive, if he had said, my arms are tied, I have no power to arrest the act; the deposites must be removed, because I cannot remove my Secretary? Here the evil would have been done before the Senate could possibly have been assembled. I am indebted to the speech of the Senator from South Carolina, [Mr. CALHOUN,] at the last session, for this illustration. The truth is, view the subject in any light you may, the power of removal is in its nature inseparable from the executive power.

I have been presenting the inconveniences which would arise, during the recess of the Senate, from the want of this power in the Executive. But suppose the Senate to be always in session, would this remove every difficulty? By no means. Confer upon the Senate the

power of rejecting removals, and you make the Executive, in the language of the debate of 1789, a double-headed monster. That power on whom is devolved the execution of your laws must be able to remove a corrupt or incompetent agent from office, or he cannot perform his duties. The Senate may, without inconvenience, and with very great advantage to the country, participate in appointments; but, when the man is once in office, the President must necessarily possess the power of turning him out in case he does not perform his duties. This power ought not to depend upon the will of the Senate, for that body have nothing to do with the execution of the laws.

If the power contended for were vested in the Senate, what would be the consequences? Still more dangerous, if possible, than any which I have yet depicted. The cases in which removals are necessary must rapidly increase with the number of our officers and our rapidly extending population. If the President must assign reasons to the Senate for his removals, according to the provisions of this bill, or if the Senate must participate in these removals as well as in appointments, it necessarily follows that these reasons must be investigated. Witnesses must be examined, to ascertain the truth or falsehood of the charges made against the officer sought to be removed. The case must be tried judicially. Time must be consumed, to the prejudice of our other duties. The legislative functions of the Senate must thus become impaired, and feelings excited between co-ordinate branches of the Government calculated to produce a most injurious effect upon the country. In this state of things, the case might readily occur which was anticipated by Mr. Madison in 1789. A majority of the Senate might even keep one of the heads of Department in office against the will of the President. Whether they would have done so or not last winter, in the case of the Secretary of the Treasury, I shall not pretend to determine.

If this power were conferred upon the Senate, it would interfere with our judicial functions to a dangerous and alarming extent. The removal of a high officer of the Government is recommended by the President to the Senate, because of official misconduct. The charges are tried before the Senate. From the very nature of the question, it must become, in fact, a judicial investigation. The Senate determine, either that he shall remain in his office, or that he shall be removed. In either case, the House of Representatives, possessing the sole power of impeachment under the constitution, determine to exercise it against this officer. But the Senate have, by their previous proceedings, utterly disqualified themselves from giving to the accused an impartial trial. They have already decided upon his guilt or his innocence. Instead of proceeding to the trial unbiased by favor or by prejudice, their minds are inflamed, their judgments are biased, and they come to the investigation with the feelings of partisans rather than those of judges. The House of Representatives would have a just right to complain loudly against the exercise of this power by the Senate. We should thus disqualify ourselves from judging impartially in cases between the people of the United States and the high officers of the Government.

I think I have successfully established the position that no two things can in their nature be more distinct than the power of appointment and that of removal. If this be the case, then what becomes of the argument of the gentleman from Massachusetts? [Mr. WEBSTER.] It rested entirely upon the principle that these two powers were so identical in their nature, that because the Senate, under the constitution, have the express power of advising and consenting to appointments, therefore, by implication, they must possess the power of advising and consenting to removals. The inference is without foundation.

The truth is, that the more we discuss this question, we shall have the greater reason to admire the wisdom of the constitution, and of those enlightened and patriotic men who placed that construction upon it in the beginning, which I shall venture to predict never will be disturbed by the American people. The Senate, from the nature of the body, are fully competent to assist the President in appointments. It would change their character altogether, and paralyze the executive arm of the Government, if they were to usurp the power of interfering in removals from office. Let the constitution, and the construction of it by its founders, in this particular, be perpetual!

It has been objected that the President, by this construction, is too far removed from responsibility in the exercise of this power. But he is responsible to the American people, whose servant he is in this, as in all other cases. Unless you palsy the executive arm, and render it powerless to do good, lest it may do evil, you cannot support the doctrine which has been urged. You must vest some discretion, you must repose some confidence, in the Executive, or the wheels of Government must stand still. Should he abuse his power, he is liable to the censure of public opinion; and, in flagrant cases, he may be impeached.

It was contended in the first Congress, and the same argument has been urged upon the present occasion, that the power of removal was not recognised by the constitution; that it was a case omitted, and that therefore, by implication, it belongs to Congress. This argument was fully met and successfully refuted in 1789. If this principle were established, the executive power would have no necessary control over executive officers. Congress might confer the power of removal upon the Senate alone, upon the House of Representatives alone, or upon both conjointly, without any participation of the President. This Government—the admiration of the world—would present the solecism of an Executive without any control over executive agents, except what might be granted to him by the Legislature. We are not placed in this unfortunate predicament. The President, under the constitution, has the power of removal. It is a constitutional power, not to be controlled by the Legislature. It is a power equally sovereign in its nature with that of legislation itself. He is a co-ordinate branch of the Government, and has the same right to exercise his discretion in removals from office, that Congress possess in regard to the enactment of laws.

This brings me to consider the constitutionality of the third section of the bill now depending before us. It provides "that in all nominations made by the President to the Senate, to fill vacancies occasioned by removal from office, the fact of the removal shall be stated to the Senate at the time that the nomination is made, with a statement of the reasons for such removal."

Whence do we derive our authority to demand his reasons? If the constitution has conferred upon him the power of removal, as I think I have clearly shown, is it not absolute in its nature, and entirely free from the control of Congress? Is he not as independent in the exercise of this power as Congress in the exercise of any power conferred upon them by the constitution? Would he not have the same authority to demand from us our reasons for rejecting a nomination as we possess to call upon him for his reasons for making a removal? Might he not say, I am answerable to the American people, and to them alone, for the exercise of this power, in the same manner that the Senate is for the exercise of any power conferred upon them by the constitution?

With all the deference which I feel for the opinions

of the Senator from Tennessee, [Mr. WHITE,] I think he has arrived at the conclusion that the third section of this bill is constitutional, by blending things together which are in their nature entirely distinct. He asks, is it not in the power of Congress to create the office, to define its duties, and to change and vary these duties at pleasure? Granted. May they not, if they believe the office unnecessary, repeal the law, and must not the officer fall under it? Granted. These are legislative powers, clearly conferred upon Congress by the constitution. It is then asked, may Congress not prescribe it as the duty of these officers to give reasons for their conduct? Certainly they may. And why? Because they are the creatures of Congress, they are called into existence by Congress, and they will cease to exist at the pleasure of Congress. Is this the condition of the Executive, who is a co-ordinate branch of the Government, and who is answerable for his conduct, not to Congress, but to the people of the United States? What right have we to demand reasons from the servant of another as to how he performs his duties? To his own master, which, in this particular, is the American people, and to them alone, he is responsible. If Congress can command him to give reasons to the Senate for his removals, the Senate may judge of the validity of these reasons, and condemn them if they think proper. The Executive of the country is thus rendered subordinate to the Senate--a position in which the constitution of the country never intended to place him. In my opinion, this bill as strongly negatives the constitutional power of the President to remove from office, without the concurrence of the Senate, as if it were so declared in express language. For this reason I shall vote against it.

But if no such question were involved in the bill, I should equally condemn its policy. Its evident tendency is substantially to make all offices offices for life, or during good behaviour, which is contrary to the genius of our institutions. But the arguments against the policy of this bill have been fully and ably insisted upon by others. At this late period of the session, when so much important business remains undone, I shall not occupy the time of the Senate in discussing this branch of the subject. I rose merely to present my views upon the constitutional question.

After Mr. B. had concluded,

Mr. CLAYTON said he proposed to say a few words on the bill before the Senate. He concurred with the honorable Senator from Pennsylvania, [Mr. BUCHANAN,] that it was an important constitutional question. But he would not at that time enter into a discussion whether it was constitutional or unconstitutional, but whether Congress had the power to regulate executive power or not. He wished to see nothing of party feeling in the discussion. He entered upon the debate entirely destitute of party politics. If it had been his design to serve party purposes, he should not, when his friends were out of office, and his opponents in power, advocate a bill which was to continue in office those who now held places of trust to the exclusion of his own friends.

He wished to go back to the origin of the principles set forth in the bill. In 1826 a report embracing the same principles as this bill was made by a special committee of the Senate, consisting of nine highly intelligent gentlemen, eight of whom concurred in the report, and were of the same political faith as the present administration. He believed they were sincere in the principles they advocated, and was willing to give them credit for the correctness of their views. But now there seemed to be an attempt to give a party character to the bill. He did not think it just for its former friends to cast it in the teeth of those who now advocated it. It had been well said by the Senator from Pennsylvania, that it was discussed in 1789 by those fresh from the hall where the constitution was framed. The most enlightened of those great men discussed it on the ground that the right of removal was contained in that clause of the constitution which says the President shall see all the laws executed; and on that point they rested their opinions. But the great mass, who voted in favor of the construction then given, he believed, grounded their opinions on the expediency and necessity of such powers being vested in the Executive, for the removal of negligent and unfaithful officers. And that was the only use they expected would be made of it. If the power of the Executive was exerted only to remove such officers, there would be no abuse; but if it was exercised to remove for party purposes, it was an abuse never apprehended by those who gave such a construction to the constitution. Mr. C. contended that the executive power was circumscribed and limited to particular clauses of the constitution; that there was no power delegated further than was specially specified. He thought that Congress had the power to legislate on the subject, as the constitution gave them power to pass laws to carry into effect its provisions. The only reason he could assign why the power of removal had remained so long in the hands of the President, was, that Congress had neglected to legislate on the subject.

He thought the Senator from Pennsylvania was mistaken in his apprehension of the bill. It was not intended to take away the removing power from the President, but merely to require his reasons for the act. The Senate ought to know the grounds on which the removal was made. If the President should tell the Senate it was on account of political principles, he, in his place as a Senator, would vote to reject every nomination made to fill the place, *ad infinitum*. He would ask whether they were acting for party effect, or as Senators of the country? He regretted that there should be any attempt to introduce the bill as a party question, and gentlemen be denounced as party men. He could find nothing in the present bill impairing the decision of 1789.

Mr. PRESTON declared that it had not been originally his intention to take part in this debate; the state of his health was such as not to admit of it; but he felt himself bound to rise and express a general opinion, and more especially to enter his most solemn protest against the strange and unwarrantable doctrines which he had heard brought forward in the course of this discussion.

He would chiefly direct his attention to what had fallen from the gentleman from New York, [Mr. WRIGHT.] With that gentleman he confessed he was ready to concur, that, if we traced back the source of executive patronage to its head, we should find it in Congress. True it was, that Congress alone authorized appropriations; true it was, that every expenditure which added to the mass of executive patronage took its rise in Congress. But what had that to do with the question as it related to the immediate subject of executive patronage? Are we to imagine that the power possessed by the President ceases to be dangerous because Congress has helped to establish the foundation of that power in authorizing the expenditure on the basis of which the patronage is rested? Is the aggregate of unlimited power at all diminished because Congress is the source from whence the hand of patronage is enabled to make its disbursements? True it is, the public money which the President disburses, or which goes to extend the sphere of his influence, is ours, and not his; but is the power less, is the sum total of patronage less, is the danger less, because it is the public money which constitutes the whole means, and creates all the influence of the patronage?

True it is, that we authorize the expenditure, but who is it that profits by it? Who is it that obtains power and patronage by it? We legislate, we make appropriations, we give authority and legitimacy to every expenditure, but it is not for ourselves; it is not for our hands to wield the mighty lever which is created by our votes. Another hand than ours wields that lever, and shall we therefore suffer it to be left there at its own discretion, without check or limitation? Shall we suffer the power which we originate to be directed against us, to our own destruction, by leaving it to be exerted at the will of a single individual?

Willing, however, as he professed himself to be, to acknowledge that Congress was the first spring and source of expenditure, he must beg to recall gentlemen to the consideration of the real question—which was not the question of origin, but of actual existence. The inquiry was directed to executive power, as now found to be, whatever may have been the errors, if they were errors, which first injudiciously suffered such a great and tremendous power to rise and grow to its present alarming height. Congress must make appropriations, and authorize expenditure for the necessities and for the welfare of the country; but does it follow, therefore, that, because Congress must, by necessity, originate expenditure, that therefore it is admissible that these expenditures should be turned aside, or employed to the creation of a power preponderating over Congress and over every thing in the country? Does it follow that it is a harmless and innocent thing, that all this expenditure should go to the profit of one individual, to aggrandize his power, to increase his influence, to augment his patronage, and to render him the unlimited master who dictates the destiny of those to whom these expenditures are disbursed by his hand? If Congress holds the purse and pours out its treasures, does it follow that one hand is to receive them and control their disbursement, and be established necessarily as the master over all who look up to that hand for the sweets it dispenses? Vain, therefore, and futile, idle, and untenable, is the specious argument which has been so much and so strongly dwelt upon, that, because the source of the expenditure is in Congress, therefore there is no dangerous accumulation of patronage with the President. There is (continued Mr. P.) a formidable amount of executive patronage. It is a proposition which no one can or will dare to deny, that this patronage has increased, and is still increasing. This is the proposition on which the report is founded: it is a proposition which imperatively calls upon all the power, and feeling, and energy of the people to awake and rouse themselves, and know their real situation; and, above all, not to be led to lose sight of the real fact, of the undeniable proposition, by being sent a hunting after collateral questions, leading away from the main point, and bewildering the judgment with disquisitions upon the various actions of Congress, and the wisdom or folly of those actions.

The gentleman from New York (observed Mr. P.) has analayzed and divided the mass of dependants, and then asked of each part, separately, whether there existed any danger in it?

First he takes the pensioners, then the army, then the navy, and so on, and after reducing each to the utmost possible insignificancy, he then triumphantly asks, "is there danger here?"

By this specious mode of representing things, the honorable gentleman is mistaken if he imagines that he will succeed in convincing the country that an army of dependants, of all classes, gives no undue influence to the power which is made to preside over the mighty mass.

However contemptible the mere individuals of each class may appear to him, the aggregate mass of patronage thrown, by their means, into the hands of the Executive, will not appear insignificant and contemptible to those who have at heart the welfare of the country, and the stability and permanency of our institutions.

The mass of dependants gives power; that is undeniable, and that is sufficient. It is therefore to evade, it is to blink the question, to attempt to show that no power whatever is conferred upon the individual who dispenses a patronage of such enormous extent.

But (said Mr. P.) by what magic is it that executive patronage, which was pronounced by a committee of gentlemen, who were now in the ranks of the administration, to be highly dangerous in 1826, and to have arrived at a pitch demanding checks and restrictions—by what magic is it that the same executive patronage and power, which is now doubled, ay, trebled, is no longer dangerous? They (the same gentlemen who declared it dangerous in 1826) now come forward when it is mightily increased, and attempt to laugh at the idea of its being dangerous in 1835! By what magic is this that the mere atoms of the colossal building, which now exists, alarmed them in 1826, and the gigantic structure itself now seems only to excite their love and admiration? This is strange, indeed! In 1826 there was an army, a navy, a Post Office Department, a pension list: all this mass of dependants were dangerous in 1826, and now that they are infinitely increased, the same gentlemen tell us that they are no longer dangerous as means of executive patronage.

I would ask the gentleman from New York, (said Mr. P.,) to whose efforts I always listen with great attention, as marks of an intelligent mind, I ask him, if restrictions upon an increased executive power were necessary in 1826, are they not now much more necessary, in the much more augmented extent of the executive patronage? If he acted with his party then, and implicitly followed the measures it put in action for its own specific objects, how is it that now he does not act in the views and upon the principles which, in 1826, his party have left upon record? What change of position has produced this change of principle? That which was right and good then, is now wrong, and false, and every thing that is bad, with the self-same party! I have not (said Mr. P.) changed my relative position: I feel now as I did then; but if I had changed my position, I would not have changed my views and principles. No! if my best friend were in power, I should say now as I said then—for the sake of our country, let us destroy the germes of a power which threatens ruin to the country, and utter destruction to our institutions. I should feel bound to do so, if my best and dearest friend were the object, and possessed of the patronage, the evils and dangers of which a man must be voluntarily and wilfully blind if he will not see. How much more are they bound to carry out the principles to which now they are opposed, who came into power wholly and solely on the basis and foundation of these very principles? How much more are they bound to sustain and maintain the principles on which they rode into power? But now we see them turn round and deny those principles; now they argue that, when executive power is increased tenfold, it is not dangerous, it is not to be restricted. They argue and vote thus, who, in 1826, when it was not half so great as now, recorded in their report that it was dangerous and ought to be restricted!

But (said Mr. P.) I rejoice to see one honorable and illustrious gentleman who sits before me [Mr. WHITE] form a great and magnanimous exception; I am glad to see him persist now in the principles and opinions which he recorded then. If these principles had been maintained, if the President had acted upon them, I should

not be where I am, (observed Mr. P.;) I should not be found opposed to his measures. Whatever personal feelings I might entertain, public opposition to principles which were my own, I never should have given. It is only because these principles have been abandoned, that I have been found in the position I occupy; but I must say, in reference to the present question, that it is pefectly insignificant who or what he may be, who is *pro tempore* the President of this Union; the question does not direct itself to the person of any individual; it is a question in which the country and posterity is deeply concerned, not for a day, but in perpetuity. The safety of our Republic depends entirely upon stripping the President, not merely the present incumbent, but every future President, of a dangerous power, of a destructive and pernicious prerogative, which cannot safely be left in the hands and at the discretion of any single individual. Let it be remembered that we are not here to legislate for a day—for the mere object of putting in one man, or turning out another; but we legislate for many years to come, and on subjects in which the course we take will decide hereafter upon our fame and character. As for myself, (said Mr. P.,) the Senate knows, every individual knows, that the principles which I now advocate are those which I always did advocate, at all times, and in all places.

This measure has been attacked, on the grounds that, in 1789, men of known talents passed an opinion favorable to the existence of the quantum of patronage which at that time was possessed by the President. I profess (said Mr. P.) I have heard with perfect dismay the gentlemen from New York and Pennsylvania [Messrs. WRIGHT and BUCHANAN] avow sentiments extremely dangerous! yes, extremely dangerous! The former gentleman opposes the bill, because he says it is not constitutional to limit the power of the Executive! The latter gentleman also takes the constitution as his basis, and builds upon it claims for the individual power of every Chief Magistrate—such as are so highly dangerous, and so overwhelming and sweeping in their consequences, that though it is not the first time I have heard such monstrous claims asserted as flowing from the same fountain, yet I am filled with the most serious apprehensions when I hear them. These gentlemen, it is true, profess great veneration for the constitution, and, with the salvo of its name, they set about establishing such claims of arbitrary and despotic power for the Chief Magistrate, as, if they succeed in their doctrine, will very soon show that a constitution which warrants such doctrines is any thing but a free constitution. So, then, if we are to give heed to the arguments and inferences of these gentlemen, and others who reason in the same strain, then we are bound by the constitution itself (as they are pleased to interpret it) to surrender up our liberties, to abandon the rights of the people, to give up all that our brave fathers contended for! Yes, we are bound to do all this by the constitutition! We are bound by the constitution to be without freedom and without a constitution. They rest their argument upon the various clauses of the constitution, and because this instrument says the executive power shall be in the President, they seriously maintain that the despotic and arbitrary power which it is the object of this bill to restrict and limit, belongs by right to the President! They prove this, or imagine they prove it, by the constitution! And with the sound of that name issuing from their lips, perhaps they imagine they will be able to prove the same monstrous doctrines which they maintain to the people of this country; but they are deceived! The people of this country are not yet, I trust, prepared to submit to individual power placed upon a pedestal out of the reach and control of the people. They argue that, because the constitution says the executive power shall be in the President, therefore we are to submit to erect a power over us which is utterly incompatible with the existence of liberty and the existence of a republic. Because the executive power is to be in the President, therefore they resist this bill which imposes limitation to his power, and are anxious to give to him and preserve to him uncontrolled, unlimited, and most dangerous power. And what is executive power? Where do they go to find out definitions for this executive power, by which they mean all power—unlimited power; and with which they seek to clothe the President? Where do they hunt up their definitions of this term "executive power," that they may know their own meaning and find arguments by which to establish a perfect despotism in our Republic? They go to the ruined and mouldering columns of the prostrate temples of Asia; they go to the palaces of European monarchs, to Buckingham House, White Hall, and St. James's; they go to the Russian Kremlin and Sublime Porte, to find a definition for executive power, and, having found it in the persons of Kings, sovereigns, and despots, they come here to our America, and seek to transfer to the White House the definition which they have found in transatlantic palaces.

If it be so—if it be as they maintain, that executive power is granted to the President by the constitution—(I speak not, said Mr. P., of the present incumbent, but of the corporation of our Presidents universally)—if the constitution makes a grant of this power, and they will not admit of any limitation to it, as they show by their opposition to the provisions of this bill, then I ask, since all power is granted to the President, what executive power is left to the States? None whatever is left to them, at that rate.

It was once proposed to grant to the President a veto on the States; but the proposition fell to the ground. What it, however, proposed, was trifling, indeed, compared to what they confer by the interpretation which they put upon the constitution—they, the gentlemen of the administration. But I believe, throughout the whole country, none others will be found to do so.

If the word executive power is to cover and include all, and to admit of no limitation or control to executive patronage and power, then I ask why should there be an enumeration in that instrument of specific acts which the President is authorized to perform? If it is to be interpreted as conceding to him all power, why should it be said that he shall be required to see that the laws are executed? Why should this be said, if all power is already his by the grant of the constitution?

The "general welfare doctrine," which has been squeezed out of the constitution, annihilating the independence of the States, never, I confess, said Mr. P., monstrous as the doctrine is, excited such alarming apprehensions in my mind as this doctrine, which is now so strenuously urged by the supporters of the administration. The spirit of our fathers, the genius of our institutions, all rise up in dismay, and cry out against it! I lift up my feeble voice against it; I pronounce my solemn protest against it, as being contrary to all that our fathers hoped and fought for, as contrary to the safety and welfare of the country, and as being a desperate struggle against the principles of that great and glorious struggle for which our ancestors laid down their lives!

Mr. WRIGHT said he felt bound to say a very few words in reply to what had fallen from the Senator from South Carolina. Knowing, as he did, how precious the time of the Senate was at that period of the session, he should content himself with making two or three remarks by way of explanation. The honorable Senator had represented him, (Mr. W.,) though unintentionally no doubt, as saying what he, in fact, never intended to advance. The gentleman had said he regarded the 100,000 pensioners, or dependants upon the bounty of

this Government, as dangerous to the liberty of the country. Now, in regard to that matter, he (Mr. W.) had not, nor did he intend to deny that the labors of the select committee were of a profitable and useful character. He did not undertake to say that the power of the President had not increased, but he undertook only to say that our institutions were not in danger from that corps of 100,000 men, and especially not in that imminent danger which the select committee seemed to suppose. It was in that sense, and that alone, that he had made his remarks. In regard to the third section of the bill then before the Senate, he had expressed an opinion that, as one of policy, it ought not to be adopted, because he did not believe the security of our republican institutions was to be obtained by an extension of the term of office. He believed that the law of 1820 was sound and salutary, and that its repeal by the third section of the present bill was calculated to make offices perpetual; and that, while gentlemen were attempting to avoid one danger, they were creating another of greater magnitude. And, with respect to the executive power, he wished to be distinctly understood as saying that the Chief Magistrate had just as much executive power as was granted him by the constitution, and no more and no less. He did not go to Russia, France, or England, in order to discover the definition of the word executive. He knew but little about those countries, and, as in reference to his own, he cared much less. We had a written constitution, and by it we were to regulate all our power. He had expressed his opinion that the power of appointment to office, and the power of removal from office, were executive powers; that the executive power pertaining to this Government was, by the constitution, granted to the President; that he possessed that power, except in so far as that the constitution had made other grants; that it had made one other, which was to the Senate, in reference to appointments. He (Mr. W.) had said (and he thought he could not have been misunderstood) that, until honorable Senators would satisfy him that removal from office was a legislative or judicial power, he should be compelled to defend his position. He was sure the Senator from South Carolina did not intend either to misunderstand or misrepresent him, when he imputed to him this language—that he (Mr. W.) maintained that all executive power was granted to the President. Why, the gentleman would make Mr. W. say what would be very foolish there, for he would make him take the executive power of Russia, Austria, and England, and all the other countries that had been named by that Senator, into his position. The gentleman surely could not have understood him as maintaining that argument. He desired explicitly to deny the implication; and, as he had now stated what he had intended to say on a former occasion, he hoped that he should be distinctly understood.

Mr. EWING rose and said that, like the gentleman from New York, he had found that his remarks had been misunderstood by the honorable Senator near him, [Mr. BUCHANAN.] When up before, he (Mr. E.) had taken occasion to remark, in the course of his argument on the constitutional question, that the several powers of our Government were not exactly and particularly separated; that the executive and judicial powers were in some measure blended; and that he thought it tended to the safety of the Republic that they should be so, to prevent one power from swallowing up the other. He thought he had been perfectly clear in the enunciation of his views, which he had illustrated by a reference to the constitution; as, for instance, (remarked Mr. E.,) the executive power is not all vested in the President. There are three powers which are partially exercised by the other branches of the Government. The power of war is exercised by the Executive, Senate, and House of Representatives; the treaty-making power by the President and Senate; and also the power of appointment by this body and the Chief Magistrate. And for what reason? It is because the executive power, if it stood entirely alone, if vested in the hands of one man, and uncontrolled by the legislative power, or the other departments of the Government, would be too strong for them—might swallow them up, and centre them, perhaps, in one hand. These are the views which I have had the honor to present to the Senate on a former occasion.

The Senate then adjourned.

WEDNESDAY, FEBRUARY 18.

EXPUNGING RESOLUTION.

Mr. BENTON offered the following resolution:

Resolved, That the resolution adopted by the Senate on the 28th day of March, in the year 1834, in the following words, "*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both," be, and the same hereby is, ordered to be expunged from the journals of the Senate, because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification; and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer; and at a time, and under circumstances, to involve peculiar injury to the political rights and pecuniary interests of the people of the United States.

Mr. POINDEXTER objected to the reception of the resolution, on the ground that it was out of order. The constitution made it the duty of the two Houses to keep a journal of their proceedings. Each House, therefore, in refusing to incorporate its proceedings in the journal, would be guilty of an unconstitutional act. The Senate might be occupied in an unconstitutional action, or might pass an unconstitutional law. But it did not follow that, because the action of the body was not in conformity to the constitution, the matter of the proceedings should not be placed on the journals. It would be a violation of the constitutional requisition, if either House were not to spread their proceedings on their journal, although they might relate to matters which the body might afterwards regret. This resolution referred merely to a record of proceedings. That record involved no principle. The act itself, which was recorded, involved the principle, and it might be done away by repeal. How could the Senate fulfil its constitutional obligations, if, after it had done an act of which it felt disposed to repent, it should expunge the record from its journals, so that the country would have no evidence of the fact that an act had been done by the body which posterity could never know? He understood, according to the rules of the Senate, that a motion to amend the journals must be made on the morning on which the journal of the preceding day was read. Would it be in order to move to expunge from the journals the record of acts done under the presidency of John Adams? If it were, there were many things there which he would be glad to have expunged. Would it be in order to move to expunge the records of any of the proceedings under the administration of Thomas Jefferson? If that would not be in order, equally out of order would it be to amend the journal of the last session, by expunging the record of any of the proceedings. The motion to amend the journal must be made on the day on which it is read.

In this view he regarded the present resolution as one which was out of order, and could not be received by the Senate; and he would put it to the Chair, whether any motion could be in order, to amend the record of a matter of fact, involving no principle, which had been done by the Senate, and in pursuance of its constitutional obligation placed upon the journal. Being on the journal, was it not due to the several sovereign States, which the Senators represented on this floor, that they should see the record? If the Senator from Missouri was of opinion that the Senate had committed an error in the adoption of the resolutions of the last session, let him offer countervailing resolutions. If he then can convince the Senate that a wrong course had been taken, the error might be corrected by making up a new fact, which might be put on the journal to countervail the other. The present motion was to do that which would destroy the record of a fact. The act having been done, it would be unconstitutional to withhold a knowledge of it from the people. Without offering an opinion upon the character of the resolution, he would merely take the ground that it was the duty of the Senate to preserve its journal as a record of matter of facts, and no motion to correct this record was in order, except on the day when it was read. To admit the principle claimed in this resolution would be to open the journals to correction from the commencement of the Government. With these views he was opposed to the reception of the resolution, as out of order.

Mr. BROWN rose and said that it appeared to him, with great deference to the Senator from Mississippi, that the remarks which had fallen from him, and the course which he had indicated, was at once novel and indefensible. Whenever a proposition stated any thing which was derogatory to the character of the Senate, or was indecorous in its language, it might be arrested in its incipient state. But it was not pretended that this resolution contained any thing which was derogatory to the Senate, or indecorous in itself. What, then, was the objection urged against the reception of the resolution? The Senator from Mississippi said that it was unconstitutional to alter the journal. This was anticipating a conclusion which could only be reached through an investigation. It must be decided, after an examination of the subject, whether the act would be unconstitutional or not. Yet the Senator from Mississippi would arrest the inquiry in its incipient stage.

But there was another question which might well address itself to the Senate, before it gave its assent to the adoption of the extraordinary course which was now desired. Several of the States, he believed as many as four or five, had, by their Legislatures, sent to their Senators instructions on this point. Would the Senate, in defiance of this action of so many sovereign States, refuse to entertain a proposition, in favor of which these instructions had been adopted? If the Senator from Mississippi persisted in this course, whatever might be the respect and reverence which he possessed for State rights, his practice would be found better calculated to bring those rights into contempt, than any other course which he could pursue. A body of representatives of the sovereignty of the States refusing to entertain a proposition, in favor of which so many States have, after full and solemn deliberation, issued their instructions. If this resolution be rejected, without consideration, would not the refusal to receive it be a precedent on which almost every resolution offered in this body might be resisted at the threshold, as there were very few which did not involve a constitutional question on which some difference of opinion existed. And just as well might the gentleman, when a resolution of that sort was offered, rise and move that it be not received. It appeared to him that the course now intimated would have a tendency to suppress every kind of inquiry. Suppose the Senate were to refuse to receive any resolution which did not quadrate with their notions of constitutional right, would not the effect be to suppress all inquiry, and every investigation of the truth? Therefore, he should be opposed to the motion of the Senator from Mississippi.

Mr. LEIGH expressed a hope that the Senator from Mississippi would withdraw his objection. It must occur to the Senator at once, that all the objections which could be urged against the introduction of the resolution would lie with equal force against its ultimate adoption; and, if he persisted, the whole debate on the merits of the resolution would come on as well at the question of introduction, as they would if the resolution were taken up and considered.

[Here Mr. POINDEXTER asked a question concerning a case which he put, but which was not distinctly heard.]

Mr. LEIGH resumed. He was not competent to give the Senator from Mississippi any information on the point of order. This he knew, that we should have to debate the question fully and fairly. It would be impossible to escape such discussion. He, himself, wished the friends of the resolution to have every opportunity afforded them to assign their reasons why it ought to be adopted. And he also desired that they also who concurred in the views of the Senator from Mississippi, as he most heartily did for one, that the proposition was hostile to the constitution, and in open violation of our duty, and that its tendency was to the entire destruction of the whole frame of our Government, should likewise have the opportunity of sustaining their opinions. It was a proposition not merely to expunge a resolution from the journals, but it would expunge the authority of this House. Such was his opinion of this question. He would therefore receive the resolution, and would give the Senator who introduced the resolution an opportunity to give all his reasons in favor of its adoption, as he had no doubt that gentleman would be prepared to do, whenever the resolution should, in its proper course, be taken up. He hoped the Senator from Mississippi would withdraw his objection.

Mr. POINDEXTER said that, in compliance with the request of the Senator from Virginia, and to avoid a discussion at this time, he would withdraw his objection to the reception of the resolution.

The objection was then withdrawn.

On motion of Mr. BENTON, the resolution was ordered to be printed.

DAVID BEARD.

On motion of Mr. CLAYTON, the bill for the relief of David Beard, which was laid on the table a few days ago, was taken up, and the amendment proposed by Mr. SHEPLEY having been withdrawn, the bill was ordered to be engrossed for a third reading.

POLISH EXILES.

On motion of Mr. POINDEXTER, the Senate proceeded to consider the bill supplementary to the act granting certain lands to the exiles from Poland.

Mr. POINDEXTER then moved some verbal amendments, the effect of which was to prevent individual Poles from disposing of their several allotments of land, without the sanction of a majority of the body; which amendments were agreed to.

Mr. POINDEXTER moved further to amend the bill, by adding a new section, for the purpose of placing it out of the power of speculators to purchase the lands of individuals; which amendment was agreed to.

Mr. ROBINSON moved to amend the bill, by adding a new section, the object of which was to prevent the location of these exiles being made on lands which were already settled and under cultivation, or lands which have not been surveyed.

In moving this amendment, Mr. R. stated that the Poles had already attempted to locate their lands on both sides of one of the most valuable rivers in Illinois, extending several miles up and down each shore.

The amendment was agreed to.

Mr. KANE asked that the question on the engrossment of the bill should be taken by yeas and nays; and they were ordered.

The question was then taken and decided as follows:

YEAS—Messrs. Benton, Black, Buchanan, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Tallmadge, Tomlinson—27.

NAYS—Messrs. Bell, Brown, Grundy, Hill, Kane, Mangum, Morris, Robinson, Shepley, Swift, Tyler, Waggaman, White, Wright—14.

On motion of Mr. LINN, it was ordered that the Senate hereafter, until the close of the session, meet at 11 o'clock each day.

EXECUTIVE PATRONAGE.

The Senate resumed the consideration of the bill to repeal the first and second sections of the act to limit the term of office of certain officers therein named, now at its third reading.

Mr. CLAY said he thought it extremely fortunate that this subject of executive patronage came up, at this session, unencumbered by any collateral question. At the last session we had the removal of the deposites, the Treasury report sustaining it, and the protest of the President against the resolution of the Senate. The bank mingled itself in all our discussions, and the partisans of executive power availed themselves of the prejudices which had been artfully excited against that institution, to deceive and blind the people as to the enormity of executive pretensions. The bank has been doomed to destruction, and no one now thinks the recharter of it is practicable, or ought to be attempted. I fear, said Mr. C., that the people will have just and severe cause to regret its destruction. The administration of it was uncommonly able; and one is at a loss which most to admire, the imperturbable temper or the wisdom of its enlightened president. No country can possibly possess a better general currency than it supplied. The injurious consequences of the sacrifice of this valuable institution will soon be felt. There being no longer any sentinel at the head of our banking establishments to warn them, by its information and operations, of approaching danger, the local institutions, already multiplied to an alarming extent, and almost daily multiplying, in seasons of prosperity will make free and unrestrained emissions. All the channels of circulation will become gorged. Property will rise extravagantly high, and, constantly looking up, the temptation to purchase will be irresistible. Inordinate speculation will ensue, debts will be freely contracted, and when the season of adversity comes, as come it must, the banks, acting without concert and without guide, obeying the law of self-preservation, will all at the same time call in their issues: the vast number will exaggerate the alarm, and general distress, wide-spread ruin, and an explosion of the whole banking system, or the establishment of a new Bank of the United States, will be the ultimate effects.

We can now deliberately contemplate the vast expansion of executive power, under the present administration, free from embarrassment. And is there any real lover of civil liberty who can behold it without great and just alarm? Take the doctrines of the protest and the Secretary's report together, and, instead of having a balanced Government with three co-ordinate departments, we have but one power in the State. According to those papers, all the officers concerned in the administration of the laws are bound to obey the President. His will controls every branch of the administration. No matter that the law may have assigned to other officers of the Government specially defined duties; no matter that the theory of the constitution and the law supposes them bound to the discharge of those duties according to their own judgment, and under their own responsibility, and liable to impeachment for malfeasance; the will of the President, even in opposition to their own deliberate sense of their obligations, is to prevail, and expulsion from office is the penalty of disobedience! It has not, indeed, in terms, been claimed, but it is a legitimate consequence from the doctrines asserted, that all decisions of the judicial tribunals, not conformable with the President's opinion, must be inoperative, since the officers charged with their execution are no more exempt from the pretended obligation to obey his orders than any other officers of administration.

The basis of this overshadowing superstructure of executive power is the power of dismission, which it is one of the objects of the bill under consideration somewhat to regulate, but which it is contended by the supporters of executive authority is uncontrollable. The practical exercise of this power, during this administration, has reduced the salutary co-operation of the Senate, as approved by the constitution, in all appointments, to an idle form. Of what avail is it that the Senate shall have passed upon a nomination, if the President, at any time thereafter, even the next day, whether the Senate be in session or in vacation, without any known cause, may dismiss the incumbent? Let us examine the nature of this power. It is exercised in the recesses of the executive mansion, perhaps upon secret information. The accused officer is not present nor heard, nor confronted with the witnesses against him, and the President is judge, juror, and executioner. No reasons are assigned for the dismission, and the public is left to conjecture the cause. Is not a power so exercised essentially a despotic power? It is adverse to the genius of all free government, the foundation of which is responsibility. Responsibility is the vital principle of civil liberty, as irresponsibility is the vital principle of despotism. Free government can no more exist without this principle than animal life can be sustained without the presence of the atmosphere. But is not the President absolutely irresponsible in the exercise of this power? How can he be reached? By impeachment? It is a mockery.

It has been truly said that the office was not made for the incumbent. Nor was it created for the incumbent of another office. In both and in all cases public offices are created for the public; and the people have a right to know why and wherefore one of their servants dismisses another. The abuses which have flowed and are likely to flow from this power, if unchecked, are indescribable. How often have all of us witnessed the expulsion of the most faithful officers, of the highest character, and of the most undoubted probity, for no other imaginable reason than difference in political sentiments? It begins in politics, and may end in religion. If a President should be inclined to fanaticism, and the power should not be regulated, what is to prevent the dismission of every officer who does not belong to his sect, or persuasion? He may, perhaps truly, say, if he does not dismiss him, that he has not his confidence. It was the cant language of Cromwell and his associates, when obnoxious individuals were in or proposed for office, that they could not confide in them. The tendency of this power is to revive the dark ages of feudalism, and to render every officer a feudatory. The bravest man in office, whose employment and bread depend upon the will of the President, will quail under

the influence of the power of dismission. If opposed in sentiments to the administration, he will begin by silence, and finally will be goaded into partisanship.

The Senator from New York, [Mr. WRIGHT,] in analyzing the list of 100,000 who are reported by the committee of patronage to draw money from the public treasury, contends that a large portion of them consists of the army, the navy, and revolutionary pensioners; and, paying a just compliment to their gallantry and patriotism, asks if they will allow themselves to be instrumental in the destruction of the liberties of their country? It is very remarkable that hitherto the power of dismission has not been applied to the army and navy, to which, from the nature of the service, it would seem to be more necessary than to those in civil places. But accumulation and concentration are the nature of all power, and especially of executive power. And it cannot be doubted that, if the power of dismission, as now exercised in regard to civil officers, is sanctioned and sustained by the people, it will, in the end, be extended to the army and navy. When so extended, it will produce its usual effect of subserviency, or if the present army and navy should be too stern and upright to be moulded according to the pleasure of the Executive, we are to recollect that the individuals who compose them are not to live always, and may be succeeded by those who will be more pliant and yielding. But I would ask the Senator what has been the effect of this tremendous power of dismission upon the classes of officers to which it has been applied? Upon the Post Office, the Land Office, and the custom-house? They constitute so many *corps d'armee*, ready to further on all occasions the executive views and wishes. They take the lead in primary assemblies, whenever it is deemed expedient to applaud or sound the praises of the administration, or to carry out its purposes in relation to the succession. We are assured that a large majority of the recent convention at Columbus, in Ohio, to nominate the President's successor, were office-holders. And do you imagine that they would nominate any other than the President's known favorite?

The power of removal, as now exercised, is nowhere in the constitution expressly recognised. The only mode of displacing a public officer for which it does provide is by impeachment. But it has been argued on this occasion, that it is a sovereign power, an inherent power, and an executive power; and, therefore, that it belongs to the President. Neither the premises nor the conclusion can be sustained. If they could be, the people of the United-States have all along totally misconceived the nature of their Government, and the character of the office of their Supreme Magistrate. Sovereign power is supreme power; and in no instance whatever is there any supreme power vested in the President. Whatever sovereign power is, if there be any, conveyed by the constitution of the United States, is vested in Congress, or in the President and Senate. The power to declare war, to lay taxes, to coin money, is vested in Congress; and the treaty-making power in the President and Senate. The Postmaster General has the power to dismiss his deputies. Is that a sovereign power, or has he any?

Inherent power! That is a new principle to enlarge the powers of the general Government. Hitherto it has been supposed that there are no powers possessed by the Government of the United States, or any branch of it, but such as are granted by the constitution; and, in order to ascertain what has been granted, that it was necessary to show the grant, or to establish that the power claimed was necessary and proper to execute some granted power. In other words, that there are no powers but those which are express or incidental. But it seems that a great mistake has existed. The partisans of the Executive have discovered a third and more fruitful source of power. Inherent power! Whence is it derived? The constitution created the office of President, and made it just what it is. It had no powers prior to its existence. It can have none but those which are conferred upon it by the instrument which created it, or laws passed in pursuance of that instrument. Do gentlemen mean by inherent power, such power as is exercised by the monarchs or chief magistrates of other countries? If that be their meaning they should avow it.

It has been argued that the power of removal from office is an executive power; and that all executive power is vested in the President; and that he is to see that the laws are faithfully executed, which, it is contended, he cannot do, unless, at his pleasure, he may dismiss any subordinate officer.

The mere act of dismission or removal may be of an executive nature, but the judgment or sentence which precedes it is a function of a judicial and not executive nature. Impeachments, which, as has been already observed, are the only mode of removal from office expressly provided for in the constitution, are to be tried by the Senate, acting as a judicial tribunal. In England, and in all the States, they are tried by judicial tribunals. In several of the States, removal from office sometimes is effected by the legislative authority, as in the case of judges, on the concurrence of two-thirds of the members. The administration of the laws of the several States proceeds regularly, without the exercise, on the part of the Governors, of any power similar to that which is claimed for the President. In Kentucky, and in other States, the Governor has no power to remove sheriffs, collectors of the revenue, clerks of courts, or any one officer employed in administration; and yet the Governor, like the President, is constitutionally enjoined to see that the laws are faithfully executed.

The clause relied upon to prove that all executive power is vested in the President is the first section of the second article. On examining the constitution, we find that, according to its arrangement, it treats first of the legislative power, then of the executive, and lastly of the judicial power. In each instance it provides how those powers shall be respectively vested. The legislative power is confided to a Congress, and the constitution then directs how the members of the body shall be chosen; and, after having constituted the body, enumerates and carefully specifies its powers. And the same course is observed both with the Executive and the Judiciary. In neither case does the preliminary clause convey any power, but the powers of the several departments are to be sought for in the subsequent provisions. The legislative powers granted by the constitution are to be vested, how? In a Congress. What powers? Those which are enumerated. The executive power is to be vested, how? In a council, or in several? No, in *a* President of the United States of America. What executive power? That which is possessed by any Chief Magistrate, in any country, or that which speculative writers attribute to the executive head? No such thing. That power, and that only, which the constitution subsequently assigns to the Chief Magistrate.

The President is enjoined by the constitution to take care that the laws be faithfully executed. Under this injunction the power of dismission is claimed for him; and it is contended that if those charged with the execution of the laws attempt to execute them in a sense different from that entertained by the President, he may prevent it, or withhold his co-operation. It would follow that, if the Judiciary give to the law an interpretation variant from that of the President, he would not be bound to afford means which might become necessary

to execute their decision. If these pretensions are well founded, it is manifest that the President, by means of the veto, in arresting the passage of laws which he disapproves, and the power of expounding those which are passed according to his own sense of them, will become possessed of all the practical authority of the whole Government. If the Judiciary decide a law contrary to the President's opinion of its meaning, he may command the marshal not to execute the decision, and urge his constitutional obligation to take care that the laws be faithfully executed. It will be recollected, perhaps, by the Senate, that, during the discussions on the deposite question, I predicted that the day would arrive when a President, disposed to enlarge his powers, would appeal to his official oath as a source of power. In that oath he undertakes that he will, "to the best of his ability, preserve, protect, and defend, the constitution of the United States." The fulfilment of the prediction quickly followed; and during the same session, in the protest of the President, we find him referring to this oath as a source of power and duty. Now, if the President, in virtue of his oath, may interpose and prevent any thing from being done contrary to the constitution as he understands it; and may, in virtue of the injunction to take care that the laws be faithfully executed, prevent the enforcement of any law contrary to the sense in which he understands it, I would ask what powers remain to any other branch of the Government? Are they not all substantially absorbed in the will of one man?

The President's oath obliges him to do no more than every member of Congress is also bound by official oath to do; that is, to support the constitution of the United States in their respective spheres of action. In the discharge of the duties specifically assigned to him by the constitution and laws, he is for ever to keep in view the constitution; and this every member of Congress is equally bound to do, in the passage of laws. To step out of his sphere, to trench upon other departments of the Government, under the notion that they are about to violate the constitution, would be to set a most pernicious and dangerous example of violation of the constitution. Suppose Congress, by two-thirds of each branch, pass a law contrary to the veto of the President, and to his opinion of the constitution, is he afterwards at liberty to prevent its execution? The injunction to which I have adverted, common both to the federal and most of the State constitutions, imposes only upon the Chief Magistrate the duty of executing those laws with the execution of which he is specially charged; of supplying, when necessary, the means with which he is intrusted to enable others to execute those laws, the enforcement of which is confided to them; and to communicate to Congress infractions of the laws, that the guilty may be brought to punishment, or the defects of legislation remedied. The most important branch of the Government to the rights of the people, as it regards the mere execution of the laws, is the Judiciary; and yet they hold their offices by a tenure beyond the reach of the President. Far from impairing the efficacy of any powers with which he is invested, this permanent character in the judicial office is supposed to give stability and independence to the administration of justice.

The power of removal from office not being one of those powers which are expressly granted and enumerated in the constitution, and having, I hope, successfully shown that it is not essentially of an executive nature, the question arises, to what department of the Government does it belong, in regard to all offices created by law, or whose tenure is not defined in the constitution? There is much force in the argument which attaches the power of dismission to the President and Senate conjointly, as the appointing power. But I think we must look for it to a broader and higher source—the legislative department. The duty of appointment may be performed under a law which enacts the mode of dismission. This is the case in the Post Office Department—the Postmaster General being invested with both the power of appointment and of dismission. But they are not necessarily allied, and the law might separate them, and assign to one functionary the right to appoint, and to a different one the right to dismiss. Examples of such a separation may be found in the State Governments.

It is the legislative authority which creates the office, defines its duties, and may prescribe its duration. I speak, of course, of offices not created by the constitution, but the law. The office, coming into existence by the will of Congress, the same will may provide how, and in what manner, the office and the officer shall both cease to exist. It may direct the conditions on which he shall hold the office, and when and how he shall be dismissed. Suppose the constitution had omitted to prescribe the tenure of the judicial office, could not Congress do it? But the constitution has not fixed the tenure of any subordinate offices, and therefore Congress may supply the omission. It would be unreasonable to contend that, although Congress, in pursuit of the public good, brings the office and the officer into being, and assigns their purposes, yet the President has a control over the officer which Congress cannot reach or regulate—and this control in virtue of some vague and undefined implied executive power, which the friends of executive supremacy are totally unable to attach to any specific clause in the constitution!

It has been contended with great ability that, under the clause of the constitution which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all others vested by this constitution in the Government of the United States, or in any department or officer thereof," Congress is the sole depository of implied powers, and that no other department or officer of the Government possesses any. If this argument be correct, there is an end of the controversy. But if the power of dismission be incident to the legislative authority, Congress has the clear right to regulate it. And if it belong to any other department of the Government, under the cited clause, Congress has the power to legislate upon the subject, and may regulate it, although it could not divest the department altogether of the right.

Hitherto I have considered the question upon the ground of the constitution, unaffected by precedent. We have in vain called upon our opponents to meet us upon that ground, and to point out the clause of the constitution which, by express grant or necessary implication, subjects the will of the whole official corps to the pleasure of the President, to be dismissed whenever he thinks proper, without any cause, and without any reasons publicly assigned or avowed for the dismission, and which excludes Congress from all authority to legislate against the tremendous consequences of such a vast power. No such clause has been shown; nor can it be, for the best of all reasons, because it does not exist. Instead of bringing forward any such satisfactory evidence, gentlemen intrench themselves behind the precedent which was established in 1789, when the first Congress recognised the power of dismission in the President; that is, they rely upon the opinion of the first Congress as to what the constitution meant, as conclusive of what it is.

The precedent of 1789 was established in the House of Representatives against the opinion of a large and

able minority, and in the Senate by the casting vote of the Vice President, Mr. John Adams. It is impossible to read the debate which it occasioned, without being impressed with the conviction that the just confidence reposed in the Father of his Country, then at the head of the Government, had great, if not decisive, influence in establishing it. It has never, prior to the commencement of the present administration, been submitted to the process of review. It has not been reconsidered; because, under the mild administrations of the predecessors of the President, it was not abused, but generally applied to cases to which the power was justly applicable.

[Mr. CLAY here proceeded to recite from a memorandum the number of officers removed under the different Presidents, from Washington down; but the reporter, not having access to the the memorandum, is unable to note the precise number under each, and can only state, generally, that it was inconsiderable under all the administrations prior to the present; but under that of General Jackson the number of removals amounted to more than two thousand—of which some five or six hundred were postmasters.]

Precedents deliberately established by wise men are entitled to great weight. They are the evidence of truth, but only evidence. If the same rule of interpretation has been settled by concurrent decisions, at different and distant periods, and by opposite dominant parties, it ought to be deemed binding, and not disturbed. But a solitary precedent, established as this was by an equal vote of one branch, and a powerful minority in the other, under the influence of a confidence never misplaced in an illustrious individual, and which has never been re-examined, cannot be conclusive.

The first inquiry which suggests itself upon such a precedent as this, brought forward by the friends of the administration, is, what right have they to the benefit of any precedent? The course of this administration has been marked by an utter and contemptuous disregard of all that had been previously done. Disdaining to move on in the beaten road carefully constructed by preceding administrations, and trampling upon every thing, it has seemed resolved to trace out for itself a new line of march. Then let us inquire how this administration and its partisans dispose of precedents drawn from the same source, the first Congress under the present constitution. If a precedent of that Congress be sufficient authority to sustain an executive power, other precedents established by it in support of legislative powers must possess a like force. But do they admit this principle of equality? No such thing. They reject the precedents of the Congress of 1789, sustaining the power of Congress, and cling to that only which expands the executive authority. They go for prerogative, and they go against the rights of the people.

It was in the first Congress, that assembled in 1789, that the Bank of the United States was established; the power to adopt a protective tariff was maintained; and the right was recognised to authorize internal improvements. And these several powers do not rest on the basis of a single precedent. They have been again and again affirmed and reaffirmed by various Congresses, at different and distant periods, under the administration of every dominant party; and, in regard to the bank, it has been sanctioned by every branch of the Government, and by the people. Yet the same gentlemen who console themselves with the precedent of 1789, in behalf of the executive prerogative, reject as unconstitutional all these legislative powers.

No one can carefully examine the debate in the House of Representatives in 1789, without being struck with the superiority of the argument on the side of the minority, and the unsatisfactory nature of that of the majority. How various are the sources whence the power is derived! Scarcely any two of the majority agree in their deduction of it. Never have I seen, from the pen or tongue of Mr. Madison, one of the majority, any thing so little persuasive or convincing. He assumes that all executive power is vested in the President. He does not qualify it; he does not limit it to that executive power which the constitution grants. He does not discriminate between executive power assigned by the constitution and executive power enacted by law. He asks, if the Senate had not been associated with the President in the appointing power, whether the President, in virtue of his executive power, would not have had the right to make all appointments? I think not; clearly not. It would have been a most sweeping and far-fetched implication. In the silence of the constitution, it would have devolved upon Congress to provide by law for the mode of appointing to office; and that in virtue of the clause, to which I have already adverted, giving to Congress power to pass laws necessary and proper to carry on the Government. He says, "the danger, then, merely consists in this: the President can displace from office a man whose merits require that he should be continued in it. What will be the motives which the President can feel for such abuse of his power?" What motives! The pure heart of a Washington could have had none; the virtuous head of a Madison could conceive none; but let him ask General Jackson, and he will tell him of motives enough. He will tell him that he wishes his administration to be a unit; that he desires only one will to prevail in the executive branch of Government; that he cannot confide in men who opposed his election; that he wants places to reward those who supported it; that the spoils belong to the victor; and that he is anxious to create a great power in the State, animated by one spirit, governed by one will, and ever ready to second and sustain his administration in all its acts and measures; and to give its undivided force to the appointment of the successor whom he may prefer. And what, Mr. President, do you suppose are the securities against the abuse of this power, on which Mr. Madison relied? "In the first place," he says, "he will be impeachable by this House before the Senate for such an act of mal-administration," &c. Impeachment! It is not a scarecrow. Impeach the President for dismissing a receiver or register of the land office, or a collector of the customs! But who is to impeach him? The House of Representatives. Now, suppose a majority of that House should consist of members who approve the principle that the spoils belong to the victors; and suppose a great number of them are themselves desirous to obtain some of these spoils, and can only be gratified by displacing men from office whose merits require that they should be continued, what chance do you think there would be to prevail upon such a House to impeach the President? And if it were possible that he should, under such circumstances, be impeached, what prospect do you believe would exist of his conviction by two-thirds of the Senate, comprising also members not particularly averse to lucrative offices, and where the spoils doctrine, long practised in New York, was first boldly advanced in Congress?

The next security was, that the President, after displacing the meritorious officer, could not appoint another person without the concurrence of the Senate. If Mr. Madison had shown how, by any action of the Senate, the meritorious officer could be replaced, there would have been some security. But the President has dismissed him; his office is vacant; the public service requires it to be filled, and the President nominates a successor. In considering this nomination, the President's partisans have contended that the Senate is not

at liberty to inquire how the vacancy was produced, but is limited to the single consideration of the fitness of the person nominated. But suppose the Senate were to reject him, that would only leave the office still vacant, and would not reinstate the removed officer. The President would have no difficulty in nominating another, and another, until the patience of the Senate being completely exhausted, they would finally confirm the appointment. What I have supposed is not theory, but actually matter of fact. How often within a few years past have the Senate disapproved of removals from office, which they have been subsequently called upon to concur in filling? How often, wearied in rejecting, have they approved of persons for office whom they never would have appointed? How often have members approved of bad appointments, fearing worse, if they were rejected? If the powers of the Senate were exercised by one man, he might oppose, in the matter of appointments, a more successful resistance to executive abuses. He might take the ground that, in cases of improper removal, he would persevere in the rejection of every person nominated, until the meritorious officer was reinstated. But the Senate now consists of forty-eight members, nearly equally divided, one portion of which is ready to approve of all nominations; and of the other, some members conceive that they ought not to incur the responsibility of hazarding the continued vacancy of a necessary office, because the President may have abused his powers. There is, then, no security, not the slightest practical security, against abuses of the power of removal in the concurrence of the Senate in appointment to office.

During the debate in 1789, Mr. Smith, of South Carolina, called for the clause of the constitution granting the power. He said, "We are declaring a power in the President which may hereafter be greatly abused; for we are not always to expect a Chief Magistrate in whom such entire confidence can be placed as the present. Perhaps gentlemen are so much dazzled with the splendor of the virtues of the present President as not to be able to see into futurity * * * *. We ought to contemplate this power in the hands of an ambitious man, who might apply it to dangerous purposes. If we give this power to the President, he may from caprice remove the most worthy men from office; his will and pleasure will be the slight tenure by which the office is to be held, and of consequence you render the officer the mere State dependant, the abject slave of a person who may be disposed to abuse the confidence his fellow-citizens have placed in him." Mr. Huntington said, "If we have a vicious President, who inclines to abuse this power, (which God forbid,) his responsibility will stand us in little stead."

Mr. Gerry, afterwards the republican Vice President of the United States, contended "that we are making these officers the mere creatures of the President; they dare not exercise the privilege of their creation, if the President shall order them to forbear; because he holds their thread of life. His power will be sovereign over them, and will soon swallow up the small security we have in the Senate's concurrence to the appointment; and we shall shortly need no other than the authority of the supreme executive officer to nominate, appoint, continue, or remove." Was not that prophecy; and do we not feel and know that it is prophecy fulfilled?

There were other members who saw clearly into the future, and predicted, with admirable forecast, what would be the practical operation of this power. But there was one eminently gifted in this particular. It seems to have been specially reserved for a Jackson to foretell what a Jackson might do. Speaking of some future President, Mr. Jackson (I believe of Georgia - that was his name—what a coincidence!) said, "If he wants to establish an arbitrary authority, and finds the Secretary of Finance [Mr. Duane] not inclined to second his endeavors, he has nothing more to do than to remove him, and get one appointed [Mr. Taney] of principles more congenial with his own. Then (says he) I have got the army; let me have but the money, and I will establish my throne upon the ruins of your visionary Republic. Black, indeed, is the heart of that man who even suspects him [Washington] to be capable of abusing powers. But, alas! he cannot be with us for ever; he is but mortal," &c. "May not a man with a Pandora's box in his breast come into power, and give us sensible cause to lament our present confidence and want of foresight."

In the earlier stages and during a considerable portion of the debate, the prevailing opinion seemed to be not that the President was invested by the constitution with the power, but that it should be conferred upon him by act of Congress. In the progress of it, the idea was suddenly started that the President possessed the power from the constitution, and the first opinion was abandoned. It was finally resolved to shape the acts, on the passage of which the question arose, so as to recognise the existence of the power of removal in the President.

Such is the solitary precedent on which the contemners of all precedents rely for sustaining this tremendous power in one man! A precedent established against the weight of argument, by a House of Representatives greatly divided, in a Senate equally divided, under the influence of a reverential attachment to the Father of his Country, upon the condition that, if the power were applied as we know it has been in hundreds of instances recently applied, the President himself would be justly liable to impeachment and removal from office, and which, until this administration, has never, since its adoption, been thoroughly examined or considered. A power, the abuses of which, as developed under this administration, if they be not checked and corrected, must inevitably tend to subvert the constitution and overthrow public liberty. A standing army has been, in all free countries, a just object of jealousy and suspicion. But is not a corps of one hundred thousand dependants upon Government, actuated by one spirit, obeying one will, and aiming at one end, more dangerous and formidable than a standing army? The standing army is separated from the mass of society, stationed in barracks or military quarters, and operates by physical force. The official corps is distributed and ramified throughout the whole country, dwelling in every city, village, and hamlet, having daily intercourse with society, and operates on public opinion. A brave people, not yet degenerated, and devoted to liberty, may successfully defend themselves against a military force. But if the official corps is aided by the Executive, by the Post Office Department, and by a large portion of the public press, its power is invincible. That the operation of the principle which subjects to the will of one man the tenure of all offices, which he may vacate at pleasure, without assigning any cause, must be to render them subservient to his purposes, a knowledge of human nature, and the short experience which we have had, clearly demonstrate.

It may be asked, why has this precedent of 1789 not been reviewed? Does not the long acquiescence in it prove its propriety? It has not been re-examined for several reasons. In the first place, all feel and own the necessity of some more summary and less expensive and less dilatory mode of dismissing delinquents from subordinate offices than that of impeachment, which, strictly speaking, was perhaps the only one in the contemplation of the framers of the constitution; certainly it is the only one for which it expressly provides. Then, under all the predecessors of the President, the power was mildly and

beneficially exercised, having been always, or with very few exceptions, applied to actual delinquents. Notwithstanding all that has been said about the number of removals which were made during Mr. Jefferson's administration, they were, in fact, comparatively few. And yet he came into power as the head of a great party, which for years had been systematically excluded from the executive patronage; a plea which cannot be urged in excuse for the present Chief Magistrate. It was reserved for him to act on the bold and daring principle of dismissing from office those who had opposed his election; of dismissing from office for mere difference of opinion!

But it will be argued that if the summary process of dismission be expedient in some cases, why take it away altogether? The bill under consideration does not disturb the power. By the usage of the Government, not I think by the constitution, the President practically possesses the power to dismiss those who are unworthy of holding these offices. By no practice or usage but that which he himself has created has he the power to dismiss meritorious officers only because they differ from him in politics. The principal object of the bill is to require the President, in cases of dismission, to communicate the reasons which have induced him to dismiss the officer; in other words, to make an arbitrary and despotic power a responsible power. It is not to be supposed that, if the President is bound publicly to state his reasons, he would act from passion or caprice, or without any reason. He would be ashamed to avow that he discharged the officer because he opposed his election. And yet this mild regulation of the power is opposed by the friends of the administration! They think it unreasonable that the President should state his reasons. If he has none, perhaps it is.

But, Mr. President, although the bill is I think right in principle, it does not seem to me to go far enough. It makes no provision for the insufficiency of the reasons of the President, by restoring or doing justice to the injured officer. It will be some but not sufficient restraint against abuses. I have therefore prepared an amendment, which I beg leave to offer, but which I will not press against the decided wishes of those having the immediate care of the bill. By this amendment,* as to all offices created by law, with certain exceptions, the power at present exercised is made a suspensory power. The President may, in the vacation of the Senate, suspend the officer and appoint a temporary successor. At the next session of the Senate he is to communicate his reasons; and if they are deemed sufficient, the suspension is confirmed, and the Senate will pass upon the new officer. If insufficient, the displaced officer is to be restored. This amendment is substantially the same proposition as one which I submitted to the consideration of the Senate at its last session. Under this suspensory power, the President will be able to discharge all defaulters or delinquents; and it cannot be doubted that the Senate will concur in all such dismissions. On the other hand, it will ensure the integrity and independence of the officer, since he will feel that if he honestly and faithfully discharges his official duties, he cannot be displaced arbitrarily, or from mere caprice, or because he has independently exercised the elective franchise.

It is contended that the President cannot see that the laws are faithfully executed, unless he possesses the power of removal. That injunction of the constitution imports a mere general superintendence, except where he is specially charged with the execution of a law. It is not necessary that he should have the power of dismission. It will be a sufficient security against the abuses of subordinate officers that the eye of the President is upon them, and that he can communicate their delinquency. The State Executives do not possess this power of dismission. In several, if not all the States, the Governor cannot even dismiss the Secretary of State; yet we have heard no complaints of the inefficiency of State Executives, or of the administration of the laws of the States. The President has no power to dismiss the Judiciary; and it might be asked, with equal plausibility, how he could see that the laws are executed, if the judges will not conform to his opinion, and he cannot dismiss them?

But it is not necessary to argue the general question, in considering either the original bill or the amendment. The former does not touch the power of dismission, and the latter only makes it conditional instead of being absolute.

It may be said that there are certain great officers, heads of Departments and foreign ministers, between whom and the President entire confidence should exist. That is admitted. But, surely, if the President remove any of them, the people ought to know the cause. The amendment, however, does not reach those classes of officers. And supposing, as I do, that the legislative authority is competent to regulate the exercise of the power of dismission, there can be no just cause to apprehend that it will fail to make such modifications and exceptions as may be called for by the public interest; especially as whatever bill may be passed must obtain the approbation of the Chief Magistrate. And if it should attempt to impose improper restrictions upon the executive authority, that would furnish a legitimate occasion for the exercise of the veto. In conclusion, I shall most heartily vote for the bill, with or without the amendment which I have proposed.

When Mr. CLAY had finished his speech,

Mr. GRUNDY rose and addressed the Chair as follows:

Mr. President: It is not my intention to reply particularly to the arguments of those who have advocated this bill, but to give my own opinions, and the reasons upon which they are founded. With all the respect I entertain for the opinion of others, both those who reported this bill in 1826, and those who now support it, I must say I differ from them radically; my judgment disapproves of every portion of it. Part of the provisions contained in it, I believe, are inexpedient, and not calculated to promote the professed object, which gentlemen say is a diminution of executive power and patronage. This object, I admit, is desirable; but I deny that this bill will have any tendency towards its accomplishment. Another portion of this bill I consider unconstitutional, and subversive of the first principles of this Government. I will examine the two important sections of this bill in their order, first premising that its introduction in 1826 has in it very little authority with me. The bill does not appear to have been acted or voted upon after its introduction, but was laid on the table upon the motion of Mr. Macon, a member of the committee. This shows, at least, that he (Mr. Macon) may have entertained doubts, or have been opposed to its passage; and how many other members of the committee may have been in the same situation it is impossible to say. There appears to have been no discussion, no vote of

* The amendment was in the following words:

Be it further enacted, That in all instances of appointment to office by the President, by and with the advice and consent of the Senate, the power of removal shall be exercised only in concurrence with the Senate; and, when the Senate is not in session, the President may suspend any such officer, communicating his reasons for the suspension during the first month of its succeeding session; and if the Senate concur with him, the officer shall be removed; but if it do not concur with him, the officer shall be restored to office.

the Senate upon the subject. This bill was again reported by the Senator from Missouri [Mr. BENTON] in 1830. I will now show its history during that session; and it will refute the charge of the Senator from South Carolina, [Mr. CALHOUN,] when he says that the friends of the administration have changed their ground and abandoned their principles. It will be seen that the whole administration party, with the exception of the Senator from Missouri, and my colleague, and Mr. Smith, of South Carolina, used every means in their power to prevent its passage. The two Senators referred to, and now members of this body, had formed their opinions in 1826; they were satisfied with them in 1830; and they are now acting in conformity with them. They are at least consistent; but I should like to know how the Senator from Virginia [Mr. TYLER] and the Senator from Kentucky [Mr. BIBB] can reconcile the votes they are about to give in favor of this bill, with the votes given by them in 1830, upon the same bill, which I will read from the journal of that session.

"The bill was then further amended, and on motion of Mr. Bibb, that it be laid upon the table, it was determined in the negative: Yeas 20, nays 23. On motion of Mr. Chase, the yeas and nays being desired by one-fifth of the Senators present, those who voted in the affirmative are, Messrs. Adams, Barnard, Bibb, Brown, Dickinson, Dudley, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, McKinley, Rowan, Sandford, Smith of Maryland, Troup, Tyler, Woodbury.

"Those who voted in the negative are, Messrs. Barton, Bell, Benton, Burnet, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnson, Knight, Naudain, Noble, Robbins, Ruggles, Seymour, Silsbee, Smith of South Carolina, Sprague, Webster, White, Willey."

If this bill should pass, the effect will be, that all district attorneys, collectors of the customs, naval officers, surveyors of the customs, navy agents, and receivers of public moneys for lands, registers of the land office, will become officers for life, unless the President shall think proper to remove them. He, and he alone, will have entire control over their tenure of office, except they become defaulters in the payment of public moneys in their hands. However incompetent or negligent they may be in the discharge of their duties, they will remain in office, unless the President shall think proper to remove them. For instance, a district attorney may mismanage the causes of the Government; may fail to promote its just claims with effect; yet, if he and his friends can secure favor with the Chief Magistrate, he continues in office for life. Not so under the existing law, which is sought to be repealed. According to it, at the end of every four years, they are brought before this body for its approval; and if they are unworthy, the Senate can discharge them from the service of the country. Gentlemen say they are diminishing executive power by this provision of the bill, when in fact they are withdrawing the power of the Senate over these officers, and concentrating it in the Executive. I think, therefore, gentlemen are wholly mistaken in the means selected by them for the accomplishment of their object. A renomination to the Senate every four years gives a salutary stimulus to a public officer to a faithful discharge of his duty. He knows that every error he commits may come to the knowledge of the Senators of his State, and the time will come, and shortly, when his conduct will be reviewed in this body; and if he shall not have performed it well, there are others besides the Chief Magistrate who have the power to prevent his continuance in office. He will, therefore, act as becomes an officer of the public acting for the community, which through this body has the power to act on him, rather than the office of the President of the United States, to whom alone he will be responsible should this bill become a law. The great principle which lies at the foundation of our institutions, so far as relates to the legislative and executive departments, is the responsibility of public agents to those who have placed them in office. Hence it is that Senators return once in six years to that body by whom they were created, and Representatives return to the people once in two years. So the President of the United States returns to the people once in four years. This is all done that their conduct may be examined, and a decision made upon the propriety of continuing them in office. How, then, can it be improper that these office-holders enumerated in this bill shall return to the appointing power once in four years, that their conduct, and the manner they have discharged their public duties, may be investigated, with a view to a decision whether they shall be continued in office or not? In regard to the control of the Executive over the minds of office-holders, I ask Senators to reflect whether he will not possess it in a greater degree when he can continue the incumbent in office without the intervention of the Senate. Under this bill, should it pass, the President would have a well-trained, disciplined, veteran corps, well skilled in all the arts of electioneering, made subservient to his will by the fact that he alone had the power to displace them, and that neither the Senate of the United States, nor any other body of men, could interfere in displacing them, or preventing their reappointment. It is urged, that worthy men have been removed from office without sufficient cause. Of this I have no doubt. The present Chief Magistrate has, in some instances, been imposed on by the representations of others. Another fact, however, is equally clear, that others have been retained who should have been dismissed. My opinion is, although I do not pretend to speak with absolute accuracy, that a majority of all the federal offices in the United States at this time are held by individuals opposed to the administration. Take the offices of the different Departments in this city, and I presume no doubt could exist in the mind of any one, that the greater number in them belong to the opposition. I have heard of no material change in the Post Office Department in that respect, and I know that two or three years ago, a witness* who knew the politics of each person engaged in the General Post Office, and was himself a violent opposition man, furnished to a committee of this body a list of the persons employed, and their politics, respectively; and a majority of them were opposed to this administration. It has somehow happened that this administration has incurred all the odium of proscription, while its enemies have enjoyed, as far as office is concerned, the greater portion of the "spoils." It is urged as an objection to the existing law, that these offices generally expire and have to be renewed at the session of Congress immediately preceding every presidential election. This was the case immediately after the passage of the law of 1820; but gentlemen should recollect that, in all cases where a temporary appointment is made by the President for any cause, when the Senate convenes and approves of the appointment, the new commission bears date, and is for four years from the time of approval by this body. This will in a short time destroy that disproportion in different years upon which this argument is founded. I am willing, however, to waive this, and place the subject upon the ground stated by the advocates of this bill, which is, that the commissions of all, or nearly all, expire at the session of Congress immediately preceding the presidential election. This period, of all others, is, in my judgment, the most unfavorable to the influence and popularity of the Chief Magistrate then in office. The influence of those who possess the appointing pow-

* Abraham Bradley, Esq., late Assistant Postmaster General.

er is greatest while many are competing for an appointment. When the apple has fallen, and in the scramble one has secured it, the other competitors go away dissatisfied; when six, eight, or ten men are striving for an office, he who succeeds in obtaining it is gratified, and will probably be the friend of the President who has bestowed it upon him; but it is quite probable that all or most of the others, who have been disappointed, will feel that their just claims have been overlooked, and they may become hostile to the Chief Magistrate, who has not properly appreciated their merits. It therefore seems to me that a more suitable period than the session of Congress preceding a presidential election could not be fixed on to weaken the executive power and influence. I therefore conclude that the enactment of the first section of this bill will greatly increase executive power and patronage, and not diminish it in the slightest degree.

If gentlemen wish to reduce executive patronage, I will unite with them most heartily, if they will strike at the root of the evil. If they will begin by diminishing the number of unnecessary offices, and opposing the creation of others not demanded by the public interest, then something effectual can be done. The evil is in the legislation of Congress, not in the executive branch of the Government. The remedy must be applied by the Legislature to its own proceedings, not in attempting to encroach upon the rights of another department of the Government.

The second section of the bill requires no comment. It only carries out in detail the provisions of the first. I shall, therefore, proceed to an examination of the third section. The provisions of this section I consider not only inexpedient, but unconstitutional; and Senators, on all sides, will excuse any unusual zeal I may manifest on this subject, because I verily believe, if this bill goes into practical effect, it will stop the operations of this Government, and destroy all those checks designed by the constitution to be imposed upon the different departments. To prevent all misunderstanding upon this subject, I will read the third section:

"*And be it further enacted*, That in all nominations made by the President to the Senate, to fill vacancies occasioned by removal from office, the facts of the removal shall be stated to the Senate, at the same time that the nomination is made, with a statement of the reasons for such removal."

Let it be recollected that this section has no necessary connexion with those which precede it. It is not restricted to the officers enumerated or mentioned in the second section. It embraces, in plain and express language, every officer of the Government, from the Secretary of State, inclusive, down to the lowest officer who holds a commission from the President of the United States. When any of them are removed, the reasons for the removal are to be assigned to this body. Why is this to be done? Gentlemen, at least some of them, on the other side of the House, have told us that the Senate may judge of the sufficiency of the reasons, and, if found insufficient, reject the successor, and all other nominees, until the original incumbent shall be restored. Now, let there be an adverse or opposition Senate, let the people call for a change of measures as loudly and strongly as they may, still nothing can be effected. They elect a Chief Magistrate by an overwhelming majority, and send him to administer the Government. This is all they can do under the constitution. He must carry their wishes into effect so far as relates to executive duties. When, however, he commences his administration, he finds the Secretaries of State, of the Treasury, of War, of the Navy, the Postmaster General, and Attorney General, all opposed to his measures of reform which have been called for by the public voice. If he shall dismiss them, the Senate will have them restored, for they have been dismissed for opinion's sake, or on political grounds merely. I ask the Senator from Kentucky, should he be elevated to the chief magistracy, in such a state of things, whether, when rendered thus powerless by the acts of this body, he would be more than a lifeless statue inhabiting the presidential mansion?

Should the Senator from Massachusetts [Mr. WEBSTER] be chosen Chief Magistrate, under similar circumstances, he would be like Daniel of old, when thrown into the lions' den, with this difference, that his God might not so effectually protect him. When one of the Secretaries should be directed by the President to make a material change in the mode of administering his Department, his reply might be, that he saw no reason for the change, and therefore would not adopt the suggestion of the President. A dismission takes place, and the Secretary, knowing he has a majority of political friends in this body, relies upon their reinstating him; I ask, will he be disappointed when the Senate comes to act upon the nomination of his successor? From what we have all seen and know, I think he would not. In this way the Senate will have the power to compel the President to retain, as his advisers and counsellors, men who would rejoice at any disaster which might befall his administration; men who would introduce discord and distraction into the executive councils, instead of harmony and concert of action. No Government can be administered in this manner, and if we wish to perpetuate the principles of republican government, we should avoid the introduction of a practice which would shake the very pillars of our free institutions.

Gentlemen say that a sense of propriety and delicacy would prevent a Secretary from retaining his place against the will of the President of the United States. Sir, I do not wish to see the successful operations of this Government dependent upon the delicacy of feeling of any man or set of men. These Secretaries might think or say that the public interest, and their duty to their country, required them not to abandon or be driven from their stations, and this Senate might entertain the same opinion. According to the mode of thinking which might prevail at the time with the Secretaries and the Senate, every feeling of delicacy would be merged in the consideration of higher and paramount duties. The question arising upon this section of the bill is certainly one of great delicacy, as it relates to this body. It is an effort, on our part, to participate in the power of removal from office, and to check the President in the use of that power which has been exercised by every Chief Magistrate, from the formation of the Government down to the present day. Whatever portion of power this bill deprives the President of, is acquired by this body. When, then, it is remembered that we daily hear charges made against the Executive, of usurping authority and power not delegated to him by the constitution, we should be careful not to incur the imputation of regarding the mote that is in our brother's eye, rather than the beam that is in our own. If, under the constitution, this body does not possess the right to participate in removals from office, this bill is an act of usurpation on our part—a grasping at power not delegated to the Senate by the constitution. I will now attempt to show that this body possesses no such power. I ask gentlemen to tell me in what part of the constitution they find the power? According to my reading of that instrument, it is nowhere to be found, either expressly or by implication.

The constitution provides three separate, distinct, and independent departments of Government--legislative, executive, and judicial; and, by this division of power, the wisest lawgivers and statesmen have supposed the best

security for liberty was secured; and it is only by protecting each department from the encroachments of the others, that the advantages arising from this separation of powers can be preserved. Wherever the same man or body of magistracy, however numerous, make the laws, decide upon, and execute them, there is despotism and tyranny, by whatever name the Government may be called. It is only by keeping the powers of Government in different bodies of men, each acting within the limits prescribed to it by the constitution, that we can calculate with any degree of certainty upon the perpetuation of the blessings of free Government. Therefore, the joint action of the different departments of this Government should never take place, unless in cases directed by the constitution. These are clearly pointed out in that instrument. In the enactment of laws, the House of Representatives, the Senate, and the President, must all concur, unless he refuse his assent, and two-thirds of each House shall pass the bill, notwithstanding his objections. In making treaties and appointing to office the House of Representatives has no agency. These subjects are confided exclusively to the President and Senate. To this extent, and no further, has the constitution authorized the President and Senate to act jointly; and the conclusion I would draw is, that so soon as that joint duty assigned to them by the constitution is performed, each of them is, in all other respects, to perform its separate functions independently of, and uninfluenced by, the other. If the framers of the constitution had intended that the Senate should participate in the power of removal, could they not, and would they not, have said so? They give to the Senate expressly a portion of the appointing power, and by not giving any portion of the power of removal, the inference is too strong to be resisted, that a participation in the latter power was not designed to be communicated to this body.

There are strong reasons why the Senate should act with the Executive in making appointments to office, and should not act with him in removals. The President may have been misinformed as to the character and qualifications of an individnal, and he may nominate him for the approval of this body. The Senators from the State in which the nominee resides, in all probability, may be better acquainted with his character and qualifications than the President; therefore, by the superior information they possess, the errors of the President may be corrected. This is a salutary check, and shows the wisdom of that provision in the constitution which makes the Senate a portion of the appointing power. Not so, however, as to the removing power. When an executive officer is appointed, he discharges his duties under the inspection of the President, although at a distance, through the official channels of communication. The President is advised of the manner in which he performs his duties. The President can, therefore, be better able to form a correct opinion as to the propriety of retaining or removing him, than this body or any other department of the Government.

The Congress of 1789 decided this question in the way for which I have contended. That Congress was composed of many of the men who formed the constitution, and knew the intention of its framers better than the men of this day. A bill was introduced into the House of Representatives creating the office of Secretary of Foreign Affairs; it contained a provision expressly giving the power of removal of that officer to the President. Upon this, a lengthy, animated, and interesting discussion took place, which resulted in striking out that part of the bill conferring the power on the President—not because it was unnecessary, but upon the ground of a pre-existing constitutional right in the Chief Magistrate, which could neither be given nor taken away by law. This bill also passed the Senate, and was signed by General Washington, then President of the United States. The first commission ever issued by him was to Mr. Jefferson, as Secretary of State, and that reads, that "the office is to be held during the pleasure of the President of the United States." This form of commission has been invariably pursued in all like cases from that period to the present. President Washington, the elder Mr. Adams, Mr. Jefferson, Mr. Madison, Mr. Monroe, and the younger Mr. Adams, have all exercised this power unquestioned, except in one case only, to which I will call the attention of the Senate. When Mr. Granger, in 1814, was dismissed from the office of Postmaster General by Mr. Madison, a great sensation was produced both in and out of Congress. This I know; for I was here at that period. Mr. Granger was known to be an able and efficient officer. He was a great favorite with the democracy of New England. He was not dismissed for any delinquency in the discharge of his public duties. In this state of things, the following resolution was introduced into the Senate of the United States, as appears from the 2d vol. Executive Journal, page 504.

Mr. German submitted the following motion for consideration:

"*Resolved*, That the President of the United States be, and he is hereby, requested to inform the Senate whether the office of Postmaster General be now vacant, and, if vacant, in what manner the same became vacant."

This resolution was rejected by a vote of the Senate, which shows that it was the understanding at that time that they had no right to interfere in cases of removal. This is the only instance, since the decision of the Congress in 1789, in which any member of the Senate has attempted to call on the President for his reasons for removal, until the present Chief Magistrate came into office. Can it be believed that this power of removal could have been exercised by all Chief Magistrates of every political character and description, and no serious question be made respecting it for the space of forty years, unless it was considered by all political parties that the constitutional power did exist, and that the decision of 1789 was well made, and in conformity with the constitution? For my own part, I have believed that this question was more fully settled than any but one in our whole political history. That the alien and sedition laws were unconstitutional may be considered better settled—no other, I am sure. In 1830, Mr. Holmes, then a Senator from Maine, introduced a series of resolutions, one of which called for the President's reasons for removals from office. I will read to the Senate so much of the journal as relates to the subject, and it will be seen that, by a full party vote, the decision was against calling upon the President for an assignment of his reasons:

"*Resolved*, That the President of the United States be respectfully requested to communicate to the Senate, the number, names, and offices, of the officers removed by him since the last session of the Senate, with the reasons for each removal.

"On motion by Mr. Grundy, that said motion be postponed indefinitely, it was determined in the affirmative: Yeas 24, nays 21.

"On motion by Mr. Grundy, the yeas and nays being desired by one-fifth of the Senators present, those who voted in the affirmative are,

"Messrs. Adams, Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Grundy, Hayne, Iredell, Kane, King, Livingston, McKinley, McLane, Rowan, Sanford, Smith of South Carolina, Tazewell, Troup, Tyler, White, Woodbury.

"Those who voted in the negative are,

"Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Noble, Robbins, Ruggles, Seymour, Silsbee, Sprague, Webster, Willey."

Gentlemen may say that there is a difference between calling upon the President by a resolution, and calling upon him by an act of Congress. I can discern no such difference. If the Senate possesses the power, it is derived from the constitution; if it does not possess it, an act of Congress cannot confer it.

It is argued that this will give more stability to the tenure of office. I am not satisfied that this is desirable. I protest against this ownership of office, so much insisted on by those opposed to this administration. Officers ought not to be induced to believe that they have a freehold estate in their offices; they should be taught to rely upon their own good conduct and faithfulness as the only means by which they can be continued in public employment. Further, although I am no ardent or extravagant advocate for rotation in office, I would not say that those who might be so fortunate as to be appointed to profitable places, requiring no particular skill or qualifications, should hold them to the exclusion of all others during their lives. I can see no impropriety whatever, after they have enjoyed the benefits of office for a reasonable time, in their places being bestowed on others equally meritorious and as well qualified.

It is no disparagement to a man's standing or character, that another individual has been found who can perform the duties of his office as well as he can, and that others had been appointed in his place. If the office has been advantageous and profitable, he should not enjoy the whole benefits in preference to all his contemporaries. On the other hand, if the office has been burdensome, he ought, in proper time, to be relieved from it.

It is impossible to forget the events which have preceded the wonderful change of opinion which has been produced in the views of some gentlemen as to the power of removal. In 1830, a few politicians had been removed, and their friends called the power of the President in question, after it had been quietly exercised for forty years; but a majority of the Senate repudiated the idea that they had the constitutional right to rein up the Executive upon that point. Never was a majority found to oppose the rights of the President, until he used it for the purpose of executing a measure which was intended to affect the interests of the Bank of the United States. Since that time, we all know, a most serious exertion has been made to produce the impression upon the public mind that the right to remove does not exist in the President, under the constitution; and now it is seriously insisted on, and may be so decided for the first time, that the President has no right to remove his own Secretaries, without the consent of he Senate.

That this bill, by its repeal of the act of 1820, tends to strengthen executive power, cannot, in my mind, admit of a doubt. Now, all executive officers embraced in the act of 1820, go out of office every four years by operation of law. There is a recurrence at such periods to the appointing power, the President and Senate. They hold now at the will of the President and Senate; of the President at all times, and of the Senate expressed once in four years; but if you repeal the law of 1820, they will hold at all times at the will of the President only. If it be said, he may fail to reappoint under the law of 1820, it may be well answered, that he may remove at all times, were that act repealed.

That taking away the frequent recurrence to the appointing power is weakening the executive branch of the Government, is, to my mind, a novel idea. Would it strengthen executive power, if all the Secretaries, Treasurer, Register, Solicitor, Comptrollers, and Auditors, had to pass the Senate every four years? On the contrary, would not such a law very much weaken the Executive, by compelling him to have such counsellors and aids as would be acceptable to the Senate, as well as himself? Whenever one of these officers became obnoxious to the Senate, however much he might be the favorite of the President, he would be driven from office by the rejection of the Senate, at the end of four years. The same principle applies to the officers embraced by the act of 1820, who are executive officers as entirely as Secretaries and Comptrollers; and if gentlemen are desirous to curtail executive power, the wiser course would be, not to repeal the law of 1820, but to enlarge its provisions, and bring all these officers under the revision of the Senate. If, under the existing law, the President may remove some who are agreeable to the Senate, he cannot, under its operation, appoint any who are not so.

The Senators are elected for six years, and therefore it may be anticipated that a majority of them will oftener be opposed to a majority of the people, than the President or House of Representatives will. If they can compel the President to retain in office men of their principles, instead of having executive officers whose opinions correspond with his own, and of the majority of the people who elected him, then may the people give up all idea of ever reforming this Government by a change of President of the United States.

I will now take a nearer practical view of the operation of the third section of the bill under consideration. Suppose the President assigns his reasons for the removal of an individual from office, as required, the first question presented to the Senate is, are these reasons sufficient to justify the act of removal? If they shall be adjudged sufficient, then another question arises, are they true? The President may have been misinformed, or, in the language of a distinguished member of the other House, the fact may be true and still not be proveable according to the rules of evidence. You thus place the President of the United States in the odious attitude of an accuser and public prosecutor; and in some, perhaps in many, cases, he may fail to make good his reasons by proof. Surely gentlemen will not attempt to escape from this state of things by saying that exculpatory evidence shall not be received in behalf of the dismissed officer. This course will be too unjust to be tolerated. The Senate has required of the President to transmit to them the reasons why the individual has been removed; the President has sent them, and they are placed upon the records of this body, the highest known to the constitution of the country. Now, are gentlemen prepared to say, after they have caused to be made public charges against the character of a removed officer, after they have inscribed them upon their own records, that they will not hear that evidence which will show that the Chief Magistrate has been misinformed, and that the charges made are unfounded in truth? I can only answer for myself: my sense of justice would constrain me to hear the evidence, and thereby vindicate the character of an individual who might otherwise suffer great injustice. It will be readily seen that, by this course of proceeding, the whole time of the Senate would be consumed in settling controversies produced by the operations of this bill.

Another objection is, that it destroys the responsibility of the President. As the law now stands, he is responsible, I mean not in a criminal point of view, but he is responsible to public opinion for the management of the whole executive department of the Government, and it is his duty to dismiss from the public service any and every public officer who fails to perform his duty, so

soon as he is informed of it. But if the Senate can force him to retain in service executive officers against his will, may he not justly say, "I could have had all executive duties well performed if I had been permitted to employ agents in whom confidence could be placed; but the Senate has compelled me to retain in the service of the executive department of the Government, men unworthy and faithless; and, therefore, I cannot justly be held responsible for the management of that department of the Government at the head of which I am placed." It seems to me, if gentlemen will review this whole subject, they will be brought to doubt whether that self-love and confidence which each man has in himself, has not had some share in inducing them to believe that this power of removal could be more safely trusted in their hands than in those to which it has hitherto been confined. Particular portions of the constitution have been relied on by the advocates of this bill, for the purpose of showing that we have the power to restrain the Executive in the exercise of the removing power. The second clause of the second section of the second article is relied on. It reads:

"He (meaning the President) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur, and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Reliance is placed upon the last sentence of what I have read. A sufficient answer to all the argument I have heard is, that we are not now passing a law vesting the appointment of inferior officers in the President alone, in the courts of law, or in the heads of Departments. Were we now passing a bill creating inferior officers, and vesting their appointments as provided for in this clause of the constitution, then questions might arise on whom the appointing power should be conferred, and also whether in such cases the removing power would not properly attach itself to those to whom the appointing power was given; but these questions cannot arise upon the bill before us. This bill is of a different character altogether; it embraces officers, the appointment of whom cannot be transferred from the President and Senate by law. It includes ambassadors, other public ministers, and consuls, which must be appointed by the President and Senate, under the general authority conferred on them in the first part of the clause of the constitution I have just read.

A part of the eighth section of the first article of the constitution has been referred to to sustain the power of Congress in passing the bill. In the enumeration of the powers of Congress it is declared that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department thereof." I cannot myself discern the least application or support which this bill can derive from this part of the constitution. The power given by it is to pass laws to carry into effect the powers vested in the Government of the United States, or in any department or officer thereof. Now, I am at a loss to see how gentlemen can discover in this a power given to Congress to deprive an officer of the Government of rights or powers vested in him by the constitution. If the power of removal was of such a nature as to require legislation to enable the President to exercise it, then it might be our duty to pass laws in aid of the Executive; but no law is necessary to assist him in the execution of this part of his duties, nor can we encumber or disable him in its exercise by our enactments.

The Senator from Kentucky [Mr. CLAY] asks us if we mean to insist that the decisions of the Congress of 1789 are decisive and conclusive in all cases; if so, it decided in favor of a Bank of the United States, and a protecting tariff, to which most of the friends of the administration are opposed. To this inquiry, a satisfactory answer can be easily given. The decision of that Congress for a bank was never acquiesced in for a single day. A large portion of the American people denounced it at the time; the opposition to it was kept up steadily during the whole existence of its charter. Mr. Jefferson, the leader of the republican party, never for a moment ceased his hostility to it, not only upon the ground that it was unconstitutional, but also that it was dangerous to the liberties of the people. This was not only his opinion, but the opinion of a great majority of those who professed to have adopted his principles of Government. The question of the bank was at all times litigated, never acquiesced in. Not so as to the removing power; that was decided, and universal acquiescence and silence in regard to it continued for forty years.

As to the tariff spoken of, as imposed by the Congress of 1789, no argument can be drawn from it to justify the tariff from which the country is now gaining gradual relief. The tariff of 1789 did not exceed, nor even equal, the necessities of the country. So far as I have understood the late controversy respecting the tariff, it has not been contended that duties may not be laid and collected for the purpose of carrying on the Government, and paying its debts. The objection is to imposition of duties to raise money not needed by the Government for constitutional objects, but for the purpose of bettering the situation of one portion of the community, to the prejudice and at the expense of another portion. But a tariff imposed for the sole purpose of raising the sums necessary to carry on the Government, administered upon an economical plan, and thereby affording protection incidentally to domestic manufactures, is not the kind of tariff which has been complained of, and which has met with such serious opposition; and gentlemen may take it for granted that any other tariff than such as I have last mentioned will never be acquiesced in.

The Senator from Kentucky [Mr. CLAY] says the people have elected the President, and, right or wrong, they will sustain him. This seems to me to be underrating the patriotism and intelligence of the American people. If he were the tyrant, usurper, and despot, which he has been described to be, the people would not sustain him. If they could have been persuaded that he had usurped powers not delegated by the constitution or laws, but had acted in derogation of both, they would not sustain him. The people of the United States elected Mr. Adams the elder, but they did not sustain him, because, in their opinion, the alien and sedition laws, passed by him and his political friends, were violations of the constitution, and showed that the rights of the people were unsafe in their hands. In the same manner would the people abandon the present Chief Magistrate, were he to do an act plainly violating the constitution, or were he to act in disregard of the rights of the people.

Mr. Jefferson, Mr. Madison, and Mr. Monroe, were all the choice of the people when they were elevated to the Chief Magistracy, and the people sustained them upon the same principle they sustain the present Chief Magistrate. They believed them to be, as they believe him to be, honest, capable, and faithful to the constitu-

tion. When the younger Mr. Adams was made President he was not the choice of the people, and they would not sustain him, and the fact of his not being their choice, when he became President contributed, more than all other causes combined, to his defeat in the election of 1828.

It is further said, that the people will not credit those who lay the misdeeds of the present Executive before them. This should rather induce gentlemen to doubt the soundness of their own opinions when the great body of the people, upon a fair exhibition of the facts and arguments, decide every important question against them; and gentlemen should not indulge the spirit of prophecy too much, unless there is a reasonable certainty that the facts foretold will follow the predictions. If, at the last session, the people of the United States could have been persuaded that they were wretched and miserable, when they felt and knew they were happy; if they could have believed that they were ruined and bankrupt, when agriculture, commerce, manufactures, and all the mechanic arts, were flourishing in a higher degree than at any former period; then, indeed, would gentlemen have succeeded in putting down the present Chief Magistrate. The people of the United States, however, attentively surveyed the controversy carrying on between the President of the United States and those by whom he was assailed. Each individual examined into his own condition for himself, and ascertained as far as practicable how far the acts of the Executive, or the acts of the Bank of the United States, has operated injuriously upon his interests; and, after full examination thus made, the judgment of the community has been, so far as it could be given, pronounced in favor of the acts of the President, and against the Bank of the United States. The gentleman from Kentucky [Mr. CLAY] tells us that the bank is now out of the question; that no proposition to renew the charter will be brought forward. My fear has been, and is, that the lion is not dead "but sleepeth;" and that, upon a promising occasion, he will rouse up from his slumbers, and exert all his powers for a prolongation of his existence.

We are again triumphantly asked, where is the treasury of the United States? I answer, safe in the deposite banks, subject to the drafts of the Treasurer, without any loss or diminution whatever. We are told that the President has asked Congress to pass a law regulating the safe keeping of the public money; but the Senator from Kentucky says no such law will be passed this session. This I think probable, because, at the last session, a bill to that effect passed the other House, but failed in this; and the same thing may occur again, even should the friends of the bill be able to pass it in the House of Representatives. The President and his friends are anxious that the public moneys be kept under rules and regulations prescribed by law. If this cannot be accomplished, the fault will not be theirs.

Mr. President, I had intended to say much more on this subject, but the state of my health, together with that desire which every Senator must feel to despatch the public business at this late period of the session, will induce me, so far as I am concerned, now to submit the important principles involved in this bill to the decision of the Senate.

The Senate then adjourned.

THURSDAY, FEBRUARY 19.

OFFENCES AGAINST THE UNITED STATES.

On motion of Mr. CLAYTON, the Senate proceeded to consider the bill in amendment of the acts for the punishment of offences against the United States.

Mr. C. explained that this bill related to offences on board ships on the high seas. The law, as it now stood, punished revolt with death, but the mode was not sufficiently defined. The courts had given a construction which had grown into a practice, but it was thought best that the punishment should be defined by statute. Another object of the bill was, to change the nature of the punishment. The penalty of death was considered to be too severe. In consequence of its severity, criminals frequently escaped any punishment whatever. Another punishment was provided by this bill. The penalty specified was imprisonment and hard labor for a term not exceeding three years. Perhaps this was too short a period. He proposed to amend the bill by striking out "three" and inserting "ten," so as to leave it to the discretion of the courts to proportion the punishment to the aggravation of the offence, from six months to ten years.

The amendment was agreed to.

Mr. CLAYTON moved to amend the second section, which defines the punishment for endeavoring to excite revolt. As it stood, it provided that the penalty should be imprisonment not exceeding one year. He moved to amend this section, by striking out "one year," and inserting "five years."

The amendment was agreed to.

Mr. CLAYTON stated that the third section provided for the punishment of masters and captains who should be convicted of excessive and cruel punishment of seamen. At present, such cases are treated as cases of common assault and battery. The bill, as reported, proposed imprisonment not exceeding one year. In order to give a greater latitude of discretion to the courts, to cover any degree of aggravation of offence, he moved to amend the section by striking out "one year," and inserting "five years."

Mr. C. explained the fourth section, which enabled the court to enter a plea of "not guilty," in cases where the party accused refused to plead; and the other section gave a discretionary power to send the convicted person to a jail or house of reformation.

After some remarks from Mr. SHEPLEY, who moved an amendment, which was negatived, the bill was reported to the Senate, the amendments were concurred in, and the bill was ordered to be engrossed for a third reading.

CHARLES J. CATLETT.

On motion of Mr. NAUDAIN, the Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Charles J. Catlett.

[This bill provides payment for a large quantity of tobacco, together with a building in which a portion of it was stored, at Magruder's ferry warehouse, Nottingham warehouse, and Cedar point warehouse, on the Chesapeake bay, which was destroyed by the British troops during the last war.]

The merits of the bill were discussed at some length, by Messrs. NAUDAIN, BELL, and SHEPLEY, who contended that the case did not come within the principle which had heretofore governed Congress in making compensation for private property destroyed by the enemy in time of war.

The opposite ground was taken by Messrs. TYLER, POINDEXTER, KING of Alabama, and FRELINGHUYSEN.

The question being on the engrossment of the bill, Mr. SHEPLEY asked for the yeas and nays; which were ordered, and were as follows:

YEAS—Messrs. Bibb, Clay, Cuthbert, Ewing, Goldsborough, Grundy, Kane, Kent, King of Alabama, Linn, McKean, Mangum, Moore, Poindexter, Porter, Robbins, Smith, Southard, Tyler, Waggaman, Webster, White—22.

NAYS—Messrs. Bell, Benton, Black, Brown, Buchan-

an, Calhoun, Clayton, Frelinghuysen, Hendricks, Hill, King of Georgia, Knight, Morris, Naudain, Prentiss, Preston, Ruggles, Shepley, Swift, Tallmadge, Tipton, Tomlinson, Wright—23.

So the Senate refused to order the bill to be engrossed.

EXECUTIVE PATRONAGE.

The Senate resumed the consideration of the bill to repeal the first and second sections of the act to limit the term of office of certain officers therein named, now at its third reading.

Mr. GRUNDY resumed and concluded his remarks in opposition to the bill. [Mr. G's speech is given entire in preceding pages.]

Mr. BIBB did not rise to enter into the discussion, but to notice a few facts which the Senator from Tennessee [Mr. GRUNDY] had passed over. The honorable Senator had read, with an air of triumph, the state of the votes of 1830, on the resolution offered by the Senator from Maine, [Mr. Holmes.] By abstracting the true state of facts, they might be made to appear what they were not. The Senator had attempted to involve certain gentlemen as voting, on a former occasion, against this bill. By the vote of 1830, the bill was laid on the table. Previous to its discussion the Senate had, by a resolution, fixed the period of adjournment for the 31st of May. The House of Representatives had, by a similar resolution, fixed the period of adjournment for the 30th of May, and the fact was, that Congress did adjourn at this latter period. Here, then, was the whole of this mighty affair. It was proposed to discuss the bill at a time when the session of the two Houses was drawing to a close; and because certain gentlemen had voted, under these circumstances, to lay the bill on the table, it was therefore assured that they were hostile to the bill. Might not gentlemen be excused for voting to lay a bill upon the table when the session was just about to expire, without being committed one way or the other as to their final vote upon the bill? The proposition of Mr. Holmes had been to call upon the President for his reasons for a certain executive act. So long as the attempt should be made to do that by resolutions, he (Mr. B.) would oppose it. But that was very different from prescribing a rule of conduct for the Executive—laying that rule before him, and requiring of him to conform himself to it. The difference was great—as great as between a retrospective law, and, in criminal cases, an *ex post facto* law.

Mr. CLAYTON rose, he said, to correct the statement made by the Senator from Tennessee, [Mr. GRUNDY,] with regard to the resolution calling upon the President for his reasons for making a removal in a certain instance. The honorable Senator had mentioned that as the only instance of the kind; but he believed there were many more.

Mr. C. then mentioned several other instances where the Senate had called on the President for his reasons. Among others he referred to the proceedings with respect to the "Panama mission," and the case of the dismissal of certain military officers, where the nominees had been rejected, not on account of any objection to them, but because the Senate thought that others ought to have the places.

Mr. C. said that he had no doubt of the propriety of calling upon the President for information, with regard to dismissal. But the question before the Senate was, not whether the President had the power of removal or not, but whether Congress had a right to regulate that power by law or not. He was aware that the honorable Senator from Ohio [Mr. EWING] had placed the question on the ground of the constitutionality of that power; and it might, perhaps, be so nearly allied to the bill as to come within the scope of discussion; but still that was not the question to be decided by the Senate.

Mr. C. said he did not deny the right of removal; he stood on the same ground as the decision of 1798. In this he differed with most of his political friends. He also differed with the opposers of the bill, inasmuch as he thought that the power flowed, not from the general grant, that all executive power should be vested in the President, but in that part where it says the President shall see the laws executed, and hence it might be regulated by law. Impeachment seemed to be the only restraint on executive power, contemplated by the constitution. And where that power was exercised by the President for self-aggrandizement and political purposes, all would agree that he ought to be impeached. But how was he to be impeached? That was a difficult question.

Mr. C. said the only control the Senate had over the power of removal was the right of rejection. And if a meritorious officer, who had discharged his duty with fidelity and good faith, should be removed, the only remedy was to reject the partisan who might be nominated by the President to fill his place: and this he would do, rejecting the first, the second, third, and so on, *ad infinitum*. Such was the maxim he had laid down as the rule of his conduct, and without information he should not know how to act.

He thought the Senator from Tennessee [Mr. GRUNDY] had artfully attempted to give the question a political cast. He deprecated such a course, and hoped the question would not be decided by a party vote.

He was anxious that the reasons of the President should be brought to light and spread before the people. It was a favor that every dismissed officer had a right to demand. The charges had been made, and would be filed away in the recesses of the Post Office or some other office. The accused would be debarred from ever seeing or knowing what they were, and, some fifty years afterwards, these charges, made against him by a political enemy, and lodged on the records of some Department, might be brought forward against his posterity. For such reasons he should vote for the bill.

Mr. CUTHBERT said the third clause of the bill then before the Senate required that the President should state the fact of removal; and, if a reappointment should be effected by a disappoval, on the part of the Senate, of the reasons for a removal, would not the power of removal be in this way encroached upon? He would ask the gentleman from Delaware, [Mr. CLAYTON,] who had said that an improper removal would subject the President to impeachment, whether the Senate, supposing that body to make an improper rejection of a nomination, would be liable to impeachment? He likewise put this question: whether, if the President was required to assign his reason for a removal, the Senate might not, also, be required to assign their reasons for rejecting a nomination?

Mr. CLAYTON replied that the Senate was not liable to impeachment—that there was another and a different remedy for malconduct on the part of the members of that body. Reference had been made to the debate of 1789; and it will be found that those who carried the proposition recognising the power of removal in the President, did so on the ground that an improper exercise of the power would subject the President to impeachment. The power given to the Senate to check appointments was unqualified, and the power to advise and assent to nominations was without qualification. The advocates for the power of removal being vested in the President only derive that power, by implication, from a certain clause of the constitution; but, like every other implied power, it was restrained by the very clause from which it was derived. It was not an absolute power of removal in the Executive.

Mr. CUTHBERT rejoined: As the gentleman had not given a satisfactory answer to his (Mr. C's) question, he must presume he was unable to give one. Senators differed much as to the meaning of the clause in question—some supposing it to have reference only to the disbursing officers of the Government, while others believed it to apply to all officers. The differences of opinion on this clause were so great, that he thought the bill could not pass without some amendment.

Mr. POINDEXTER then expressed an intention to make some remarks, if the Senate should be disposed to continue the debate to-morrow.

On motion of Mr. CALHOUN, the Senate adjourned.

FRIDAY, FEBRUARY 20.

DUTIES ON IMPORTS.

Mr. WEBSTER, from the Committee on Finance, reported, without amendment, the bill to suspend the operation of portions of the tenth and twelfth clauses of the seventh sections of the act supplementary to the acts imposing duties on imports, of July, 1832.

Mr. W. expressed his hope that a word or two, to show the necessity for the passage of this bill, would induce the Senate to permit it, at this time, to go to its third reading. It would be recollected that, in the law of July, 1832, the tenth and twelfth clauses of the seventh section imposed, in part, duties on hardware. Congress had afterwards found it necessary to pass a law suspending for one year the operation of these clauses. They had repealed that measure of suspension last year, and had directed the Treasury to institute an inquiry for the purpose of obtaining information on the subject. A report had been received from the Treasury, and a bill had been carefully prepared elsewhere. But the slow progress of that measure, and the near termination of the session, rendered it extremely uncertain whether any other than a temporary measure could pass at the present session. The committee, under these circumstances, had instructed him to report in favor of a further suspension of the operation of the clauses referred to, until the close of the next session.

The bill was then considered as in Committee of the Whole; and the bill having been reported without amendment, was ordered to be engrossed for a third reading.

CHARLES J. CATLETT.

Mr. PRENTISS moved to reconsider the vote rejecting the bill for the relief of Charles J. Catlett.

Mr. P. said he was induced to move for a reconsideration of the vote given yesterday, in order that the bill might be recommitted to the Committee on Finance. A difference of opinion was understood to exist among Senators in regard to the facts in the case, and Mr. P. desired a recommitment for the purpose of obtaining a more full and distinct report of the facts. Although he could not say that his opinion had as yet undergone any change, he might find occasion to alter it on a further statement of facts.

Mr. P. said he was clearly of opinion that the petitioner was entitled to compensation for the property destroyed by the public enemy at McGruder's Ferry. Although the American troops did not occupy the building by an actual entrance and possession of it, they sheltered themselves behind it, and used it as an intrenchment for their protection. There was an obvious distinction between the general occupation of a city by troops, and the occupation or use of a particular building in an open country. But the facts in relation to the property destroyed at Nottingham and Cedar point did not bring the claim for that property within the principle which had been established by Congress; and, as the Senate refused to amend the bill, so as to conform it to his views, Mr. P. said he was obliged to vote against it.

The petitioner had lost the whole property mentioned in the bill; and, so far as Mr. P's feelings were concerned, he was disposed to compensate the petitioner for the entire amount; but he did not feel himself at liberty to depart from the principles adopted by Congress, and grant to the petitioner what would not be allowed to others in similar circumstances.

At the same time, Mr. P. said, he was unwilling that any injustice should be done to the petitioner. His case was a hard one, and Mr. P. would give him the whole benefit of the principle which had heretofore been acted upon, and carry the principle to its utmost extent in his favor. If it should appear, on a further statement of facts, that the destruction of the property at Nottingham by the enemy could be fairly imputed to the use of the property by the American troops for their defence, he should consider it as coming within the principle established, and should not hesitate to allow a compensasion for it, notwithstanding such use of the property was two months before the destruction of it. Mr. P. said he had no objection, if it was desired, that the motion, for the present, should be laid upon the table.

On motion of Mr. SHEPLEY, the motion to reconsider was laid on the table.

AMENDMENT OF THE CONSTITUTION.

The following resolution, offered by Mr. KENT some time since, coming up for consideration—

"*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* (two-thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States, as an amendment to the constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid as part of the constitution:

"When a bill, which, having passed the Senate and House of Representatives, shall be returned by the President, with his objections, upon the reconsideration thereof, a majority of all members elected to each House shall again pass such bill, notwithstanding the objections of the President, it shall become a law; and the requisition of two-thirds in such case, according to the existing constitution, is revoked"—

Mr. KENT rose and addressed the Chair as follows:

Mr. President: I should not, at this late period of the session, have requested the Senate to consider the amendment I have submitted, important as I consider it, were it not closely connected with the subject under debate.

Cautious and reluctant as I would be, at all times, in any attempt unnecessarily to alter or amend the constitution or frame of government under which we live, which I trust will long be the pride of our country and the admiration of the world, I find myself compelled, notwithstanding, to propose the modification embraced by the resolution, by considerations which, as a public man, I cannot resist.

No one can venerate more than I do that instrument; nor is there one who would more readily render a willing homage to the wisdom, virtue, and patriotism, of its illustrious authors; but I owe still greater veneration to the principles which gave existence to the work of their hands, and, while cherishing the constitution, I cherish still more the liberties of the country.

In our endeavors to adjust the delicate springs by which the complicated movements of Government are performed, there was always ground to apprehend that, in avoiding one danger, we might rush upon another, and thereby multiply the evils which we designed to remedy.

But if warned, by suggestions like these, from unnecessary innovations or precipitate amendments, it is surely not the part of wisdom to reject the admonitions of experience, to shut our eyes against dangers both palpable and appalling, to neglect every defence which patriotism might use against the approach of despotism, and to sacrifice the vital principles of the constitution, by too closely adhering to its original language, regardless of its spirit, or the practice under it.

Among the practical lessons which have been taught us by the illustrious men who framed the constitution, there is none more important than that which disclaims all pretence to infallibility, submits the constitution to the test of experience, opens it to future amendment, and confides its preservation and improvement to the wisdom and virtue of succeeding generations.

Sir, they knew full well that the work which they had formed was but a great experiment; they knew it could endure only while cherished by the principles from which it sprang. However admirable in its construction, however symmetrical its parts, they were far from indulging in the presumptuous thought that time and experience, those unerring tests of human actions, would not reveal some latent defect; and, whilst interposing proper obstacles to ill-judged innovations, they left to posterity the power to add new guards to the constitution, and to accommodate its provisions to future exigencies as they should arise.

With these views, Mr. President, in proposing the amendment which I had the honor to submit, I conceived I only acted in the spirit of the constitution, impelled by no other considerations than those which I trust will for ever influence the friends of American freedom. I looked far beyond and above the ephemeral party divisions of the day, and was willing, if more acceptable to the Senate, to give to the resolution a prospective operation, and thereby avoid all offensive application of it. I considered only the prerogatives claimed, and the dangers with which we were beset, and sincerely believed that the proposition on the table was the very one which the framers of the constitution would have adopted in the place of the existing provision, could they have foreseen the more than royal pretensions recently set up, or anticipated the executive action for the last five or six years.

Permit me now, Mr. President, to advert to some of those considerations which, in my judgment, recommend the adoption of the amendment, which an imperious sense of duty alone has prompted me to submit.

The veto power, as exercised at present, tends to unite the legislative and executive powers, than which nothing could be more dangerous to the liberties of the country. I presume it may be asserted, as a fundamental principle in the science of government, which admits of no doubt, that, in all free Governments, where the rights of man are recognised, and liberty is cherished, the legislative, executive, and judicial powers should be lodged in different hands, at least as far as practicable, and that their concentration in the same hands would constitute the essence of despotism, and lead to intolerable oppression.

History is replete with examples to this effect, many of which I have selected; but I shall forbear to fatigue the Senate with referring to them at this time, and shall only remark that Mr. Madison, justly styled the "surviving father of the constitution," has said that "no political truth is certainly of more intrinsic value than the political axiom, that the legislative, executive, and judicial departments ought to be separate and distinct; and that the accumulation of all powers, legislative, executive, and judicial, in the same hands, whether of one, of few, or of many, and whether hereditary, self-appointed, or elective, may be justly pronounced the very definition of tyranny;" and this sentiment is fully maintained by the judicious Polybius, in his Review of the Roman Constitution, in which he distinctly ascribes the existence of liberty to the appropriation of distinct and separate powers to the Senate, the Consuls, and the people; and he clearly foresaw the termination of the Republic, and the loss of liberty, consequent on the destruction of the equilibrium of the constitution.

Of these powers, thus assigned to different departments, the distribution of which is considered indispensable to the existence of liberty under any form of government, the most important, beyond all doubt, is that of the legislative, which it is my object to endeavor to preserve, and to secure against executive encroachment.

It is a principle not less universally admitted than that which enjoins the separation of the legislative, executive, and judicial powers, that the law-making power must be retained by the people, and should be exercised by representatives chosen for the purpose, and periodically responsible for the faithful discharge of their duty. If the power to make laws, which, of course, includes the power of taxation, should once be permitted to pass from the hands of the people into any other department, or into the hands of an individual wielding the self-protecting patronage of the Government, or in any way shielded from popular control, it is easy to foresee that the first step in legislative assumption would be to perpetuate the power thus acquired, and that every successive act would be one of encroachment and oppression.

This sentiment was boldly asserted and firmly maintained by our patriotic ancestors, when they avowed that the legislative power for America could not be exercised by a British Parliament, and that the duly authorized delegates of the people could alone enact laws by which the people could be bound. Not only is it true, sir, as an abstract principle, that the law-making power belongs to the people, and can only be exercised by their immediate representatives; it is, fortunately, a principle imbodied in the constitution of our country. In the first section of the first article it is declared that "all legislative powers, herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

This Senate and House of Representatives, in which all the legislative powers of the Government are exclusively vested, are the delegates or agents of the people, chosen immediately by them, or through the instrumentality of the Legislatures of the several States, for the sole purpose of making laws. They, and they only, are authorized to make them.

Whether, then, we consider the nature of the legislative power, as expressive of the general will of the whole community, or the provisions of the constitution, it is manifest that the whole law-making power is vested in the Senate and House of Representatives alone; and no President of the United States is justifiable in interfering with this power further than to secure himself against encroachments upon executive privileges, evidently bestowed upon him by the constitution, or to guard the country against the consequences of inconsiderate, precipitate, or corrupt legislation. In England, where the King is a part of the Parliament, and exercises legislative power, the laws are headed as follows:

"Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same."

In the United States, where Congress alone exercises legislative powers, and the President is only authorized to defend himself against encroachments upon his rightful powers, the laws are headed:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled."

Why, then, it may be asked, was the assent of the President required to all acts, except those passed by two-thirds of the legislative body? The answer is obvious to all who will take the trouble to consult the contemporaneous exposition of the constitution, and the early practice of the Government in reference to the exercise of this power. The power thus granted to the Executive was not intended to be active, but defensive; it was not intended to give him any participation in the legislative power, but merely to preserve the executive department from legislative encroachments, and, as before observed, to guard the country against the effects of inadvertent legislation. It was never supposed that any Executive, in a popular Government, would attempt to restrain the general will of the community, expressed by the representatives of the people, clothed exclusively with power to declare that will upon matters of mere expediency, in which no executive power was impinged, in which no constitutional question was involved.

In the most able contemporaneous defence of the constitution, the qualified negative upon bills passed by Congress was defended solely on the ground of its being a preventive against legislative encroachment upon executive functions.

The first practical exposition of this power will be found in an official opinion given by Mr. Jefferson to President Washington, in less than two years after the Government went into operation; Mr. J. being then Secretary of State. It was given when the first bill was passed granting a charter to the Bank of the United States. I will give only the closing sentence of this opinion. He remarks: "It must be added, however, that, unless the President's mind, on a view of every thing which is urged for and against this bill, is tolerably clear that it is unauthorized by the constitution; if the *pro* and *con.* hang so even as to balance his judgment, a just respect for the wisdom of the Legislature would naturally decide the balance in favor of their opinion. It is chiefly for cases where they are clearly misled by error, ambition, or interest, that the constitution has placed a check in the negative of the President."

The opinion of Mr. Jefferson covers the whole ground for which I contend; namely, the supremacy of the legislative department of the Government, as expressive of the will of the community. Let it be remembered that Mr. Jefferson practised upon the principles expressed in this opinion. He approved a supplemental bill to the charter of the Bank of the United States, thereby yielding up his constitutional scruples to the will of the Legislature.

Mr. Jefferson never exercised the veto power during the eight years of his presidential service; neither did the elder nor the younger Adams.

"The primary inducement," says Mr. Madison," in conferring the veto power upon the Executive, is to enable him to defend himself. Indeed, even in England, where the King is considered a part of the Parliament, and, therefore, possessing a share of legislative power, the royal negative would only be permitted in cases where encroachments were attempted upon the royal prerogatives." He therefore infers, "*a fortiori*," that in the United States, where the President is expressly excluded from any share in the legislative power, the President's negative would never be permitted by a nation of freemen, except in cases where manifest encroachments were attempted upon presidential rights and duties, or where the negative was required to preserve the constitution from violation.

Blackstone, in speaking of the negative power in Great Britain, remarks that, "to hinder any encroachment upon the rights and authority vested in the Crown, the King is himself a part of the Parliament; and, as this is the reason of his being so, very properly, therefore, the share of legislation which the constitution has placed in the Crown consists in the power of rejecting, rather than resolving; for we may apply to the royal negative in this instance what Cicero observes of the negative of the Roman Tribunes, that 'the Crown has not the power of doing wrong, but merely of preventing wrong being done.' In order to guard against his interference, it is a rule, not only that the King could not send them any express proposition about laws or other subjects, but that his name should never be mentioned in their deliberations."

Mr. Hamilton is more in detail upon this subject, and what he says is equally applicable in sustaining my proposition. He remarks that,

"The superior weight and influence of the legislative body in a free Government, and the hazard to the Executive in a trial of strength with that body, afford a satisfactory security that the negative would generally be employed with great caution; and that, in its exercise, there would oftener be room for a charge of timidity than of rashness. A King of Great Britain, with all his train of sovereign attributes, and with all the influence he draws from a thousand sources, would, at this day, hesitate to put a negative upon the joint resolutions of the two Houses of Parliament. He would not fail to exert the utmost resources of that influence to strangle a measure disagreeable to him, in its progress to the throne, to avoid being reduced to the dilemma of permitting it to take effect, or of risking the displeasure of the nation by an opposition to the sense of the legislative body. Nor is it probable that he would ultimately venture to exert his prerogative, but in a case of manifest propriety, or of extreme necessity. All well-informed men in that kingdom will accede to the justness of this remark. A very considerable period has elapsed since the negative of the Crown has been exercised.

"If a magistrate so powerful, and so well fortified as a British monarch, would have scruples about the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States, clothed, for the short period of four years, with the executive authority of a Government wholly and purely republican?

"It is evident that there would be greater danger of his not using his power, when necessary, than of his using it too often, or too much. An argument, indeed, against its expediency, has been drawn from this very source. It has been represented on this account as a power odious in appearance, useless in practice. But it will not follow that, because it might rarely, it would never be exercised. In the case for which it is chiefly designed, that of an immediate attack upon the constitutional rights of the Executive, or in a case in which the public good was evidently and palpably sacrificed, a man of tolerable firmness would avail himself of his constitutional means of defence, and would listen to the admonitions of duty and responsibility."

Thus, Mr. President, I have given you the opinions entertained of this power by the ablest men, both in England and America, all of which sustain my amendment. I will now proceed to show you that if there is good reason why this power should originally have existed in the British constitution, from whence it was copied into ours without any effectual modification, we must not look to that country for any countenance whatever either in its use or its abuse in the United States.

That strong reasons may be urged why this veto power should be possessed by a King of England, that do

not, and cannot, apply to the President of the United States, is beyond all doubt.

The King of England is a hereditary monarch; he and his descendants have a deep personal interest in the Government. It behooves them to see that their rights, dignities, powers, and prerogatives, are not modified or lessened to their prejudice. To enable the King to maintain unimpaired those important interests, he is made a component part of the Parliament. No meeting of Parliament can take place without his assent. He convenes and he prorogues them, either in person or by proxy; and, notwithstanding his participation, under the constitution of the realm, in the legislative duties of the Government; notwithstanding the deep individual interest of himself and family in the monarchy; and notwithstanding his possessing an absolute negative upon all laws passed by Parliament, he has had good sense enough to refrain from the exercise of this odious and oppressive power since 1692. The Kings of England, yielding to the influence of liberal principles, and what they believe to be due to the expression of public sentiment, through the representatives in Parliament, have abstained from the use of this power for the space of one hundred and forty-two years; whilst a President of the United States, in this enlightened age, disregarding the influence of those liberal principles, although our institutions are based upon them, and in defiance of public sentiment, has made the exercise of the qualified veto power, obnoxious and despotic as it is, a measure of almost every day's occurrence.

"The prerogative of the King of England embraces large powers, great privileges, and ample revenues, amounting to four or five millions of dollars per annum. He can do no wrong, and in him there is no weakness or folly." Thus able writers describe him; and the absolute negative granted to him was bestowed to enable him to preserve those great immunities unimpaired, but he never finds it necessary to use it.

Very different, sir, is the condition of the President of the United States. He is only the chief executive agent, and, like us, the servant of the people, and not the less so because he occupies a somewhat higher station, elected only for four years; and, when he discharges the duties of his office with fidelity and ability, has an arduous time of it. He possesses under the constitution no inviolability of person; he has no exclusive, no personal interest in the Government; no prerogative to contend for against Lords and Commons. His duties are plainly laid down. He has not a privilege above, or distinct from, the humblest citizen of the country. He is liable to impeachment, trial, condemnation, and punishment, as well as other officers of the Government; and when his period of service has expired, which heretofore on no occasion has exceeded eight years, the incumbent has retired to the walks of private life, to participate with his fellow-men in the good or the evil that might befall the country.

Here, then, is a marked distinction as regards the veto power bestowed upon the executive department of the respective Governments. The King of England, I repeat, has a deep, exclusive, personal interest in the Government, which passes from him to his descendants, and which might require the exercise of the veto power to preserve it; whilst the President of the United States has no interest whatever in the Government, but what he holds in common with the mass of his fellow-citizens.

One advantage I admit the veto power to possess, and one only of importance, and that the amendment I propose does not disturb; in truth, there is no proper benefit resulting from it that the proposed amendment does not leave unimpaired, at the same time that it secures to the legislative body its just powers. The veto power, when judiciously exercised, is designed to cause any act of Congress obnoxious to the Executive to be re-examined. The reasons assigned by a President for rejecting a bill or resolution would bring in review not only all the arguments *pro* and *con.* in relation to the measure that had been previously used in discussing it, but the two Houses would be aided by the new light thrown upon the subject in the argument presented to them by the Chief Magistrate. The oftener a measure is brought under examination, the greater the diversity in the situation of those who are to examine it, the less must be the danger of those errors which flow from want of due deliberation, or which might result from the effects of faction, precipitancy, or of any impulse unfriendly to the public good. But after this review, this re-examination, this investigation for a third time, of the subject, should a majority of all the members elected to either House be decidedly in favor of any measure thus acted on, I cannot consent that the public will, thus expressed through their immediate representatives, should be thwarted, should be placed at the absolute will and control of a single individual. It is admitting that a single man may possess more wisdom, more virtue, more patriotism, than shall be contained in both Houses of Congress. It tends to destroy all confidence in a representative Government, and establishes a preference for dictatorial power; it uproots the representative system, upon which our institutions are based.

Sir, from what I have said, I take it for granted, as an incontestable principle, which no citizen of the United States will be bold enough to deny, that the qualified negative of the President upon the acts of Congress was granted by the constitution only for the purpose of protecting the executive authority from legislative encroachment; that it should be restricted to that object only; and that its application to any other is an abuse of power. Not many years since, Mr. President, I heard an old and experienced member of the House of Representatives declare, upon the floor of that House, that the President of the United States possessed more power than the King of England, and said he was borne out in this opinion by the correspondence of Mr. Jefferson. If I am not prepared to give my full assent to this sentiment at this time, (and I am certainly now more inclined towards the opinion than formerly,) I have no hesitation in believing that there is less danger to be apprehended from an attempt at encroachment by the legislative department of the Government upon the executive, than of a similar attempt by the executive upon the legislative. The Senate will indulge me with a few words upon this point, as it has an important bearing upon the subject before us. Let us consider, then, in the first place, the nature of those bodies to which the legislative and executive powers are confined. The legislative department is composed of many individuals, strangers to each other, with conflicting interests and views, coming from every part of the country, elected for short periods, compelled to bear, in their own persons and through their offspring, the burden of those measures they may sanction; whose personal qualities, known to their constituents, are, in some degree, a pledge for their fidelity; liable to be broken up in fragments of opposing parties by ministerial influence and executive control; who can never be brought to act in concert against the persuasions, the influence, and the patronage of any Executive, except by the weight of some impending danger, sufficient to hush into silence the most discordant elements.

Every one of those features in the composition of the legislative department of the Government forbids the probability that any design inimical to the executive department could ever then be formed. The short period of service for which they are elected renders it

impossible that they could carry out any such design, if ever formed, into systematic and continued action. And, moreover, why should the Legislature, as a body, desire the possession of executive power, when the very numbers of which this body is composed would prevent the possibility of their discharging the duties attached to it. Mr. President, from the very nature of things, the legislative encroachment upon the executive department is not the danger to be feared; there is more danger that, holding in their hands the privileges of the people, they will not be sufficiently firm in the hour of danger, and at all times sufficiently tenacious of their rightful powers: there lies the danger.

The executive department is, in all respects, entirely different. The President is elected for a longer period than the representatives of the people. He is master of his own secrets; he is not bound to communicate his ambitious designs; his real character may be unknown to the great body of the people. The most artful schemes for the perpetuation of his power may be masked under hypocritical pretences for the public good; his whole power is undivided; he alone is responsible; he wields an immense patronage; and his power and patronage, thus moved by a single will, may be brought to bear upon a single point, and be made conducive to a single object—his own aggrandizement.

More frequently than otherwise he is an ambitious man; his objects are vast; his lust of power increases with its possession; and, disdaining the fetters of legislative restraint, he seeks to control, if he cannot remove them.

Is it not, then, true, sir, that here is the weak point of every republican Government? Is it not true that the executive department of the Government should invariably arouse the watchful jealousy of freemen? Take the history of the world. Who have disregarded the limitations of power? Who have trampled on the rights of the people? Who have been most eager to monopolize power? Has it been Senators or Emperors, Parliaments or Kings, the representatives of the people or the Executive Magistrate, grasping, against law, a public treasury, and wielding effectually both purse and sword?

History, sir, abounds in examples, establishing the undeniable fact that, in all ages of the world, the chief Executive Magistrate, however chosen and however restrained, has been the great agent for working the oppression of the people and the destruction of freedom. It matters not with whatsoever dignities invested, and within whatsoever rules confined, the accumulation of power in his own hands seems the great object of his exertions, and encroachment on encroachment the very law of his nature.

Mr. President, shall I refer to historical incidents, and inquire whether it was Pericles or the Areopagus that subverted the Athenian Commonwealth? whether it was Cæsar or the Senate that destroyed the liberty of Rome? whether it was Cromwell or the Parliament that established dictatorial power in England? whether it was not the First Consul of France who, disdaining the restraints of legislative authority, established an imperial Government, and made his will the only law? It is undeniable, sir, that there is a constant tendency in the executive power of every Government, and especially ours, to contemn the barriers of the constitution, to construe at its pleasure the enactments of the law, to decide for itself the limitations upon its own action, and gradually to undermine the legitimate influence of our coordinate branches of the Government.

This view of the subject is not new. It is to be met with interspersed every where amidst the prophetic apprehensions of the sages and patriots of our country during the discussions that preceded the adoption of the constitution of the United States; and I am pained to say that what was prophecy then is too rapidly becoming history.

Of all the means by which the executive department will be able to destroy the equilibrium of the constitution, and to absorb in its own vortex the legislative and judicial powers, the exercise on common occasions of its qualified negative, thereby preventing the enactment of laws which have received the sanction of both branches of the Legislature, after great deliberation and ample discussion, is by far the most alarming.

A few words will show the formidable nature of this pretension, this palpable abuse of a self-defensive, and, so far as purely self-defensive, beneficial power.

In all free governments parties will exist. When founded on abstract principles, and not devotion to men, those parties are useful. At the head of one of those parties will always be found the successful candidate for the presidential office. It will generally appear that the party who first supported will afterwards sustain him.

In all his measures, he calculates on party adhesion. The immense patronage he wields not only forms a cement by which the unity of his own party is preserved, but presents attractions by which its numbers are recruited, and its active opponents neutralized and silenced. By means of this patronage, pervading the whole community, the existing Chief Magistrate at all times exerts a silent but powerful influence upon popular elections, which is greatly increased by executive officers themselves intermingling in elections, exerting all their means, their influence, their credit, in behalf of the candidates most friendly to their chief, and especially when the power of appointment and removal is practically vested in the President alone, and every appointment shall be made agreeably to the degree of partisan zeal which the expectants of office shall display, and when continuance in office shall depend upon elasticity of conscience, intensity of zeal, and the effective aid which the incumbent will be able to render in every emergency to the political manager or idol of the day. It can seldom happen that any President, brought into office as the head of a great party, who are bound to each other by the ties of interest, wielding to any purpose the appointments at his disposal, directing the disbursements of the immense revenue subjected to his control, and unblushingly holding the honors and emoluments of office as the price of fidelity or the spoils of victory, will fail in commanding, whenever so inclined, a majority in one or the other of the two Houses of Congress. Should that majority happen to be found in the House of Representatives, the danger to liberty will be the greater, and could only be checked by the vigilance of freemen and the spirit of the people.

And let us suppose, sir, that, in addition to the power granted to the President by the constitution, to recommend to Congress such measures as he shall judge necessary and expedient, he shall exercise, indirectly, by members speaking his known sentiments, the initiative power in the business of legislation, and the negative power upon all such of their proceedings as may not comport with his previous views, however capricious they may be, will it not be evident that he possesses an effective control over the whole legislation of the country? What becomes, then, of the "beau ideal" of the separation of powers? What becomes, then, of that distinct will of each department of the Government, upon matters especially confided to it by the constitution, which Mr. Madison asserted, as admitted on all hands, "was essential to liberty?" Where shall we find that perfect equilibrium, which is to prevent one department of the Government from encroaching on the others? But let us suppose that, hereafter, you may have a President who will take special pains to declare

the executive will beforehand upon matters specially confided to the legislative department, and entirely within the sphere of legislative action, and, anticipating an approaching meeting of Congress, publish to the world an executive manifesto, declaring the final opinions of the Executive upon the great questions of currency, commerce, peace and war, so as effectually to preclude all legislative inquiry, and to leave to Congress merely the privilege of recording the executive decrees. What, then, becomes of the balance of power? Where, then, is the legislative power? Will you not have then the very accumulation of power, legislative, executive, and judicial, in the same hands, which Mr. Madison describes as the very definition of tyranny? Where will you then find a corrective for executive abuses? What power shall arrest executive usurpation? Will a solitary voice in the legislative halls avail you any thing? No, sir; the suggestions of patriotism, wisdom, and experience, imbodied in the most eloquent language, would be disregarded by the representatives of a dominant party, elected through executive influence. But suppose, against all probability, you should find that majority; what hope will remain, with the executive veto staring us in the face? Can any one suppose that two-thirds of both branches of the Legislature will ever be found to concur in the enactment of a law which the President is known to disapprove? Any bill involving great principles has been rarely, if ever, known to pass through Congress but by bare majorities, even where the sentiments of the Executive were unknown. Has an instance yet occurred of the enactment of any law, which the President had returned with his objections? Let this veto power be exerted in all its extent, and the legislative power vested in Congress by the constitution is no more. Restrict the President in whatever other way you please, still from that moment he becomes absolute in his actions, a monarch, a dictator, a despot. Yes, sir, from that moment the revolution is achieved, and the people are slaves. Will such a power be suffered longer to remain to the Executive unrestricted, a power which a King of England has so long refrained from exercising that it may be said to be obsolete? What has been its operation here? It has changed the whole course of the legislation of the country.

The veto power, applied to the bill appropriating the proceeds of the public lands, gratified the new States. The same power, arresting a system of internal improvements, pleases the South. The seizure and transfer of the public deposites, by a stretch of executive power, is highly acceptable to another important section of the country. Thus the exercise of this power secures to the Executive friends enough in each of those sections of the country to ensure him a majority, whilst perhaps neither would entirely be satisfied with what so much pleased the other.

In conclusion, Mr. President, let us look into the manner in which this power to negative legislative acts has heretofore been exercised, and what we may expect from its overwhelming effects, if it shall be left unrestrained. At the commencement of the Government, we shall find it directed to objects of little interest, and of less importance; for a number of years it was used to correct the effects of hasty or inadvertent legislation; it performed the office for which it was designed, and confined its operation to cases where the constitution was alleged to have been violated by the enactment of the bill; as time rolls on, it outstrips in its pretensions all that the early enemies of a strong executive had predicted. It is confined no longer to alleged violations of the constitution, or to enactments supposed to impinge executive authority; it has invaded the field of general legislation.

It assumes the power to decide, originally and finally, on questions of finance, of commerce, of currency; in a word, whatever can affect the happiness and safety of the whole community, and the individual prosperity of every citizen. Nor is this universal assumption of legislative power by the Chief Executive Magistrate a rare occurrence. Formerly, the return of a bill with the President's objections constituted an epoch in the annals of legislation. Twice only did it occur, on trivial subjects, in the first twenty-two years of the Government. Now, sir, it may be said to rank with the familiar occurrences of the day. Seven times was it exerted within the first five years of the present administration, and that, too, upon bills not novel in their character, but well known to the people, and embracing numerous subjects deeply interesting to them. Independent of these facts, what have we beheld within a short period? The executive will arrayed against the legislative will, upon subjects confided to the legislation of Congress; the Executive not the agent to execute, but the master to dictate; the President not waiting for laws to be passed and presented for his approbation, but anticipating and controlling legislative action, by proclaiming, in advance, his settled determination; interposing objections to important measures, which, after mature deliberation and public discussion, legislative wisdom had devised; entering busily into the initiative measures of the law-making department; proposing, most considerately, to relieve Congress from the duties which the constitution had devolved upon them; offering, if desired, to prepare for their use the model of an act which they might register, and he approve; and even declaring, if we are correctly informed, that if the most noted and fatal of his legislative experiments should, in the lapse of time, fail to accomplish the purposes intended, or prove wholly destructive to the vital interests of the nation, he would then be prepared with another experiment. Nay, sir, so rapid and so alarming have been the strides of executive power over the prostrate constitution, so palpable the abuses, so deadly the thrusts which have been committed under the cloak of a power intended only as a shield, that the President appears to have designedly, at the approach of a late session, anticipated the action of Congress upon a subject with which the law-making power alone had the right to intermeddle; as if for the purpose of controlling the action of Congress on the very subject, and of keeping (by means of the veto power) the legislative remedies for an act extending greatly the executive power more perfectly at his disposal.

Sir, when these examples are before us, in the very infancy of our Government, what may we not apprehend from the accumulating encroachment of future years? More danger is always to be apprehended from the illegal exercise of power than from the quantum granted. The dictatorial power, when legally conferred and legally exercised, proved no detriment to the liberties of Rome. But when Cæsar passed the Rubicon with a victorious army, in open and successful defiance of positive law, the will of one man became superior to the law, and the Republic was changed to an imperial throne. The reason is obvious: when power, however great, is conferred by law, checks and limitations may be interposed to render it innoxious; but when power can successfully transcend a constitutional or legal restraint, even in a matter apparently unimportant, who will be able to interpose a check to the successful progress of usurpation, when the enslavement of the people may be the consequence, and a crown the prize?

Mr. President, the Executive has, in every age and in every country, been the bane of liberty. It is that power in the State which possesses an activity which never slumbers. Its never-ceasing tendency is to increase the sphere of its own action, and to swell the

number of its votaries. The dignities and emoluments which it commands are addressed to the strongest passions that can sway the human breast. Its operations are unseen, its movements unfelt, its impulses unknown, until we behold their effects upon the freedom of a country, and find its liberties writhing beneath their influence, and expiring in the agonies of death. The deadly potion which they administer will be often presented with a winning smile.

So long as confined within its legitimate sphere, the executive power contains within itself an impelling force, which scarcely any free government is able to resist; but, if it once successfully enters upon legislative action, the people are undone.

Mr. President, in my humble judgment, the presidential negative upon legislative proceedings, as now practised and abused, is entirely inconsistent with republican freedom. The people must curtail it, or prepare for subjugation. All history proves that power is never sated; usurpation never stops. If the public will is not respected and obeyed by the Chief Magistrate of the land, when expressed by representatives coming fresh from the people, that Magistrate will soon be superior to the constitution and the law. Soon, did I say? He has them, through the agency of the veto power, already under his foot.

Mr. CLAY then, after briefly complimenting the mover of the proposition for the correctness of his views and the ability with which he had presented them, for which the whole country owed him its thanks, stated that the proposition was one which ought to be adopted, only after the most deliberate examination. He regretted that the lateness of the period of the session would, in all probability, prevent the measure from receiving that deliberate consideration at this session. It would not, at any rate, be proper to continue the discussion of the resolution to-day. He would, therefore, move to lay it on the table, promising to call it up again, if any favorable opportunity should occur for acting upon it.

The resolution was then laid on the table.

BRANCHES OF THE MINT.

Mr. WAGGAMAN moved to take up the bill for the establishment of branches of the mint in New Orleans, Aurariа, and in North Carolina, and Georgia; which was ordered.

Mr. WAGGAMAN then spoke in support of the bill, and urged its necessity from a consideration of the great importations of gold and silver into New Orleans, and the great expense and risk incurred by sending on all the bullion from the South to be coined at Philadelphia.

Mr. TALLMADGE proposed an amendment, having for its object the establishment of a branch of the mint at New York also.

Mr. WAGGAMAN felt a regret that he must object to the amendment as an appendage to the present bill: New York was within six hours' easy travel to Philadelphia, and bullion could be coined free of expense to them, whereas it cost to the owners in New Orleans two and a half per cent.

Mr. CALHOUN hoped the amendment would not be pressed at present: when the proper time should come, he would be glad to vote for having branches at New York, Boston, Norfolk, Charleston, and other necessary and central places. One reason for pressing now for their immediate establishment, as by the bill, was, that the whole amount of the expenses which their establishment would cause, was more than counterbalanced by the expenses which the distance of Philadelphia occasioned.

Mr. BENTON spoke in the same sense; he wished to see a hard metallic currency in the hands of the people; he wanted it to be made to run in that channel, viz: the great body of the people; he wanted the country to be saved from the rag system; he wanted a sound and solid currency to be established instead of paper, whether from local or any other banks; he was anxious to see the currency brought back to that solid condition in which it was when the States surrendered up the right of coining to the federal Government; next session he would not oppose a motion for the benefit of other places, but at present the lateness of the session, and the immediate necessity of the places mentioned in the bill, made it desirable not to embarrass its progress by the introduc- of other places, not under circumstances of equal pressure; he therefore should vote against the amendment.

Mr. TALLMADGE then withdrew his amendment.

Mr. WAGGAMAN proceeded to propose amendments, filling up the blanks of the bill; which were severally adopted.

An amendment proposed by Mr. KING, of Alabama, was adopted; to the effect that the salaries of the officers should not commence till the necessary buildings were built.

The question upon the adoption of the bill was about to be put, when

Mr. CLAY rose and proposed to lay the bill upon the table, and that it should be printed with the amendments. He was (he said) disposed to feel favorably towards the bill, considering the friendly quarter from which it came; but he felt a desire to know more about the matter, to know the amount of expenditure to which it would lead; not a syllable of this information had been given, and he wished to have an opportunity of examining into the subject.

Mr. CALHOUN hoped the honorable member would withdraw his motion; as to the amount of expenditure, it would be less than the present loss occasioned by the distant location of the mint in Philadelphia.

Mr. PORTER concurred in the wish that Mr. CLAY would withdraw his motion; if he should press it, the loss of the bill would be the consequence.

Mr. CLAY said if we are to discuss the measure, let us now go into it. Here is a bill creating an expenditure of half a million annually, and in perpetuity, and he wished to look into it; it was possible that a great importation of bullion into New Orleans for one or even two consecutive years, might cease altogether afterwards, and then the country would continue to be saddled with this expenditure; for, as long as a grain of gold dust was to be picked up, these establishments and all of their expenditures would be propped up. He was, therefore, determined not to withdraw his motion, unless it were to go into the immediate discussion of the bill.

Mr. WAGGAMAN then assented to the motion, on an understanding that to-morrow he would again call up the bill.

EXECUTIVE PATRONAGE.

The Senate proceeded to consider the bil to repeal the first and second sections of the act to limit the term of office of certain officers therein named.

The question being on the passage of the bill,

Mr. POINDEXTER said that, since this subject had been under the consideration of the Senate, he had felt anxious to express his opinions upon its principles. It opened before us the whole theory of our Government. But from respect to the Senate, and a belief that it had been amply discussed to enable the people to understand it, he would not take up the time of the Senate by entering far into the discussion. He had wished, in particular, to examine the doctrine of implied powers. He denied the whole theory altogether. The executive powers of the President were derived from legislative enactments. There was no such thing as implied powers in any branch of the Government. Where power was

given, it was expressly declared and specified in the constitution. There was another point he wished to have discussed: that was, the power of impeachment. But he would forbear.

Mr. CALHOUN said the question involved in the third section of the bill, whether the power to dismiss an officer of the Government can be controlled or regulated by Congress, or is under the exclusive and unlimited control of the President, is no ordinary question, which may be decided either way, without materially affecting the character and practical operation of the Government. It is, on the contrary, a great and fundamental question, on the decision of which will materially depend the fact, whether this Government shall prove to be what those who framed it supposed it was—a free, popular, and republican Government—or a monarchy in disguise.

This important question, said Mr. C., has been very fully and ably discussed by those who have preceded me on the side I intend to advocate. It is not my intention to repeat their arguments, nor to enforce them by additional illustration. I propose to confine myself to a single point of view, but that point I hold to be decisive of the question.

If the power to dismiss is possessed by the Executive, he must hold it in one of two modes: either by an express grant of the power by the constitution, or as a power necessary and proper to execute some power expressly granted by that instrument. All the powers under the constitution may be classed under one or the other of these heads; there is no intermediate class. The first question then is, has the President the power in question by any express grant of the constitution? He who affirms that he has, is bound to show it. That instrument is in the hands of every member; the portion containing the delegation of power to the President is short. It is comprised in a few sentences. I ask the Senators to open the constitution, to examine it, and to find, if they can, any authority given to the President to dismiss a public officer. None such can be found; the constitution has been carefully examined, and no one pretends to have found such a grant. Well, then, as there is none such, if it exists at all, it must exist as a power necessary and proper to execute some granted power; but if it exists in that character, it belongs to Congress, and not to the Executive. I venture not the assertion hastily; I speak on the authority of the constitution itself; the express and unequivocal authority which cannot be denied nor contradicted. Hear what that sacred instrument says: "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," (those granted to Congress itself,) "and all other powers vested by this constitution in the Government of the United States, or in any department or office thereof." Mark the fulness of the expression. Congress shall have power to make all laws, not only to carry into effect the powers expressly delegated to itself, but those delegated to the Government, or any department or office thereof; and of course comprehends the power to pass laws necessary and proper to carry into effect the powers expressly granted to the executive department. It follows, of course, to whatever express grant of power to the Executive the power of dismissal may be supposed to attach, whether to that of seeing the law faithfully executed, or to the still more comprehensive grant, as contended for by some, vesting executive powers in the President, the mere fact that it is a power appurtenant to another power, and necessary to carry it into effect, transfers it, by the provisions of the constitution cited, from the Executive to Congress, and places it under the control of Congress, to be regulated in the manner which it may judge best. If there be truth and reasoning on political subjects, the conclusion at which I have arrived cannot be resisted. I would entreat gentlemen who are opposed to me, said Mr. C., to pause and reflect, and to point out, if possible, the slightest flaw in the argument, or to find a peg on which to hang a doubt. Can they deny that all powers under the constitution are either powers specifically granted, or powers necessary and proper to carry such into execution. Can it be said that there are inherent powers comprehended in neither of these classes, and existing by a sort of divine right in the Government? The Senator from New York [Mr. WRIGHT] attempted to establish some such position, but the moment that my colleague touched it with the spear of truth, he [Mr. W.] shrunk from the deformity of his own conception. Or can it be asserted that there are powers derived from obligations higher than the constitution itself? The very intimation of such a source of power hurled from office the predecessor of the present incumbent. But if it cannot be denied that all the powers under the constitution are comprised under one or the other of these classes, and if it is acknowledged, as it is on all sides, that the power of dismissal is not specifically granted by the constitution, it follows, by irresistible and a necessary consequence, that the power belongs not to the Executive, but to Congress, to be regulated and controlled at its pleasure.

I would be gratified, said Mr. C., that any one who entertains an opposite opinion would attempt to refute this argument, and to point out wherein it is defective; and such perfect confidence do I feel in its soundness, that I will yield the floor to any Senator who may rise and say that he is prepared to refute it.

[Here Mr. TALLMADGE, from New York, rose and said that he was not satisfied with the argument, and would attempt to show its error. Mr. C. sat down, for the purpose of giving him an opportunity; when Mr. T. began a formal speech on the subject generally, without attempting to meet Mr. C's argument, when the latter rose and said that Mr. T. had mistaken him; that he did not yield the floor for the purpose of enabling Mr. T. to make a speech, but to enable him to refute the argument which Mr. C. had advanced; and that, if Mr. T. was not prepared to do so, he (Mr. C.) would proceed in the discussion.]

Mr. CALHOUN proceeded, and said: The argument on which I have relied has been alluded to by the Senator from Tennessee [Mr. WHITE] and my friend from Kentucky who sits before me, [Mr. BIBB;] and the Senator from Tennessee, [Mr. GRUNDY,] whom I am sorry not to see in his place, attempted a reply. He objected to the argument, on the ground that the construction put upon the clause of the constitution which has been quoted would divest the President of a power expressly granted him by the constitution. I must, said Mr. C., express my amazement that one so clear sighted, and so capable of appreciating the just force of an argument, would give such an answer. Were the power of dismissal a granted power, the argument would be sound; but, as it is not, to contend that the construction would divest him of the power, is an assumption without the slightest foundation to sustain it. It is his construction, in fact, which divests Congress of an expressly granted power, and not ours which divests the President. By his he would take from Congress the authority, expressly granted, of passing all laws necessary and proper to carry into effect the granted powers, under the pretext that the exercise of such a power, on the part of Congress, would divest the Executive of a power nowhere granted in the constitution.

I feel, said Mr. C., that I must appear to repeat unnecessarily what of itself is so clear and simple as to require no illustration; but I know the obstinacy of

party feeling and preconceived opinions, and with what difficulty they yield to the clearest demonstration. Nothing can overthrow them but repeated blows.

Such, said Mr. C., are the arguments by which I have been forced to conclude that the power of dismissing is not lodged in the President, but is subject to be controlled and regulated by Congress. I say forced, because I have been compelled to the conclusion, in spite of my previous impression. Relying upon the early decision of the question, and the long acquiescence in that decision, I had concluded, without examination, that the decision had not been disturbed, because it rested upon principles too clear and strong to admit of doubt. I remained passively under this impression until it became necessary, during the last session, to examine the question, when I took up the discussion of '98, with the expectation of having my previous impression confirmed. The result was different. I was struck, on reading the debate, with the superiority of the argument of those who contended that the power was not vested by the constitution in the Executive. To me they appear to be far more statesmanlike than the opposite arguments, and partake much more of the spirit of prophecy. After reading this debate, I turned to the constitution, which I read with care in reference to the subject discussed, when for the first time I was struck with the full force of the clause which I have quoted, and which, in my opinion, for ever settles the controversy.

I will now, said Mr. C., proceed to consider what will be the effect on the operation of the system under the construction which I have given. In the first place, it would put down all discretionary power, and convert the Government into what the framers intended it should be—a Government of laws, and not of discretion. If the construction be established, no officer, from the President to the constable, and from the Chief Justice to the lowest judicial officer, could exercise any power but what is expressly granted by the constitution, or by some act of Congress; and thus that which, in a free State, is most odious and dangerous of all things—the discretionary powers of those who are charged with the execution of the laws—will be effectually suppressed, and the dominion of the laws be fully established.

I would, in the next place, unite, harmonize, and blend into one whole, all the powers of the Government, and prevent that perpetual and dangerous conflict which would necessarily exist between the departments of this Government under the opposite construction. Permit each department to judge of the extent of its own powers, and to assume the right to exercise all powers which it may deem necessary and proper to execute the powers granted to it, and who does not see that, in fact, the Government would consist of three independent, separate, and conflicting departments, without any common point of union, instead of one united authority controlling the whole? Nor would it be difficult to see in what this contest between conflicting departments would terminate. The executive must prevail over the other departments. Without its concurrence the action of the other departments are impotent; neither the decrees of the court nor the act of Congress can be executed but through the executive authority; and if the President be permitted to assume whatever power he may deem to be appurtenant to his granted powers, and to decide according to his will and pleasure, and on his own responsibility, whether the decision of the court or the acts of Congress are or are not consistent with the rights which he may arrogate to himself, it is impossible not to see that the authority of the legislative and judicial departments would be under his control. Nor is it difficult to see that, if he may add the power of dismissal to that of appointment, and thus assert unlimited control over all who hold office, he would find but little difficulty in maintaining himself in the most extravagant assumption of power. We are not without experience on this subject. To what but to the false and dangerous doctrine against which I am contending, and into which the present Chief Magistrate has fallen, are we to attribute the frequent conflicts between the executive and the other departments of the Government, and which so strongly illustrates the truth of what I have stated. Under the opposite and true view of our system all these dangerous jars and conflicts would cease. It unites the whole into one, and the legislative becomes, as it ought to be, the centre of the system; the stomach and the brain, into which all is taken, digested, and assimilated, and by which the action of the whole is regulated by a common intelligence; and this without destroying the distinct and independent functions of the parts. Each is left in possession of the powers expressly granted by the constitution, and which may be executed without the aid of the legislative department, and in the exercise of which there is no possibility of coming into conflict with the other departments; while all discretionary power necessary to execute those granted, and in the exercise of which the separate departments would necessarily come into conflict, are by a wise and beautiful provision of the constitution transferred to Congress, to be exercised solely according to its discretion, and thus avoiding, as far as the departments of the Government are concerned, the possibility of collision between the parts. By a provision no less wise this union of power in Congress is so regulated as to prevent the legislative from absorbing the other departments of the Government. To guard the Executive against encroachments of Congress, the President is raised from his mere ministerial functions to a participation in the enactment of laws. By a provision in the constitution, his approval is required to the acts of Congress; and his veto, given him as a shield to protect him against the encroachments of the legislative department, can arrest the acts of Congress, unless passed by two-thirds of both Houses. And here let me say that I cannot concur in the resolution offered by my friend from Maryland, [Mr. KENT,] which proposes to divest the Executive of his veto. I hold it to be indispensable; mainly on the ground that the constitution has vested in Congress the high discretionary power under consideration, which, but for the veto, however necessary for the harmony and unity of the Government, might prove destructive to the independence of the President. He must, indeed, be a most feeble and incompetent Chief Magistrate, if, aided by the veto, he would not have sufficient influence to protect his necessary powers against the encroachments of Congress. Nor is the Judiciary left without ample protection against the encroachments of Congress. The independent tenure by which the judges hold their office, and the right of the court to pronounce when a case comes before them upon the constitutionality of the acts of Congress, as far at least as the other departments are concerned, affords to the Judiciary an ample protection. Thus all the departments are united in one, so as to constitute a single Government, instead of three distinct, separate, and conflicting departments, without impairing their separate and distinct functions, while, at the same time, the peace and harmony of the whole are preserved.

There remains, said Mr. C., to be noticed another consequence not less important. The construction for which I contend strikes at the root of that dangerous control which the President would have over all who hold office, if the power of appointing and removal, without limitation or restriction, were united in him. Let us not be deceived by names. The power in question is too great for a Chief Magistrate of a free State.

It is in its nature an imperial power, and, if he be permitted to exercise it, his authority must become as absolute as that of the Autocrat of all the Russias. To give him the power to dismiss, at his will and pleasure, without limitation or control, is to give him an absolute and unlimited control over the subsistence of almost all who hold office under Government. Let him have the power, and the sixty thousand who now hold employment under Government would become dependent upon him for the means of existence. Of that vast multitude, I may venture to assert that there are very few whose subsistence does not more or less depend upon their public employment. Who does not see that a power so unlimited and despotic over this great and powerful corps must tend to corrupt and debase those who compose it, and to convert them into the supple and willing instruments of him who wields it? And here let me remark, said Mr. C., that I have been unfairly represented in reference to this point. I have been charged to assert that the whole body of office-holders are corrupt, debased, and subservient; with what views, those who made this charge can best explain. I have made no such assertion, nor could it with truth be made. I know that there are many virtuous and high-minded citizens who hold public office; but it is not, therefore, the less true that the tendency of the power of dismissal is such as I have attributed to it; and that, if the power be left unqualified, and the practice be continued as it has of late, the result must be the complete corruption and debasement of those in public employ. What, Mr. C. asked, has been that powerful cause that has wrought that wonderful change which history teaches us has occurred at different periods in the character of nations? What has bowed down that high, generous, and chivalrous feeling; that independent and proud spirit which characterized all free States in rising from the barbarous to the civilized condition; and which finally converted them into base sycophants and flatterers? Under the operation of what cause did the proud and stubborn conquerors of the world, the haughty Romans, sink down to that low and servile debasement which followed the decay of the Republic? What but the mighty cause which I am considering; the power which one man exercised over the fortunes and subsistence, the honor and the standing, of all those in office, or who aspired to public employment? Man is naturally proud and independent, and if he loses these noble qualities in the progress of civilization, it is because, by the concentration of power, he who controls the Government becomes deified in the eyes of those who live, or expect to live, by its bounty. Instead of resting their hopes on a kind Providence and their own honest exertions, all who aspire are taught to believe that the most certain road to honor and fortune is servility and flattery. We already experience its corroding operation. With the growth of executive patronage, and the control which the Executive has established over those in office by the exercise of this tremendous power, we witness among ourselves the progress of this base and servile spirit, which already presents so striking a contrast between the former and present character of our people.

It is in vain to attempt to deny the charge. I have marked its progress in a thousand instances within the last few years. I have seen the spirit of independent men, holding public employ, sink under the dread of this fearful power, too honest and too firm to become the instruments or flatterers of power, yet too prudent, with all the consequences before them, to whisper disapprobation of what in their hearts they condemned. Let the present state of things continue; let it be understood that none are to acquire the public honors or to retain them but by flattery and base compliance, and in a few generations the American character will become utterly corrupt and debased.

Now is the time to arrest this fatal tendency. Much will depend on the vote on the measure which is now before you. Should it receive the sanction of this body and the other branch of the Legislature, and the principle be once established that the power of dismissal is subject to be regulated by the action of Congress, and not, as is contended, under the sole control of the Executive, the danger which now menaces the destruction of our system may yet be arrested. The discretionary and despotic power which the President has assumed to exercise over all in the public employment would be subject to the control of law; and public officers, instead of considering themselves as the mere agents of the executive department, and liable to be dismissed at his will and pleasure, without regard to conduct, would be placed under the protection of the law.

But it is objected by the Senator from Tennessee, [Mr. GRUNDY,] that the construction for which I contend would destroy the power of the President, and arrest the action of the Government. I must be permitted to express my surprise, said Mr. C., that such an objection should come from that experienced and sagacious Senator. He seems entirely to forget that the President not only possesses executive powers, but also legislative; and that he is not only a Chief Magistrate, but also a part of the law-making power. Does he not recollect that the President has his veto; and that no law can be passed which would improperly diminish the authority which ought to belong to him as Chief Magistrate without his consent, unless passed against his veto by two-thirds of both Houses? an event which, it is believed, has not occurred since the commencement of the Government, and the occurrence of which is highly improbable. How, then, can it be asserted that the construction for which I contend would destroy the just authority of the President? Let it be established, and what would follow? Every proposition to regulate and control the power of dismissal would become a question of expediency, and would be liable to be assailed by all who might suppose that it would impair improperly the power of the Chief Magistrate. And seconded as they would be by the veto, if necessary, there could be but little danger that restriction too rigid would be imposed on his authority. The Senator from Tennessee also objects that the measure would be impracticable, and asks, with an air of triumph, what would the Senate do if the reasons of the President should be unsatisfactory? I do not, said Mr. C., agree with those who think that the Senate can or ought to continue to reject the nominations of the President in such cases, until the officer who has been dismissed shall be restored. I believe that course to be impracticable, and that in such a struggle the resistance of the Senate would be finally overcome. My hope is, that the fact itself that the President must assign reasons for removals would of itself go far to check the abuses which now exist. I cannot think that any President would assign to the Senate, as a reason for removal, that the officer removed was opposed to him on party grounds. Such is the deceptive character of the human heart, that it is reconciled to do many things under plausible covering which it would not openly avow. But suppose there should be a President who would act upon the principle of removing on a mere difference of opinion, without any other fault in the officer, and who would be bold enough to avow such a reason, Congress would not be at a loss for a remedy, on the principles for which I contend. A law might be passed that would reach the case; it might be declared that the removal by the President, if his reasons should not prove satisfactory, should act merely as a suspension to the termination of the next ensuing session, unless filled by the advice and consent of the Senate.

The Senator from Tennessee has conjured up a state of

frightful collision between the Executive and the dismissed officers, and has represented the Senate chamber as the arena where this conflict must be carried on. He says, if the President should be bound to assign his reasons, the party dismissed would of right have a claim to be heard as to the truth and correctness of those reasons, and that the Senate would have its whole time engrossed in listening to the trial. All this is merely imaginary, if the President on his part should exercise the power of removal with the discretion and justice which he ought, and with which all the predecessors of the present Chief Magistrate have in fact exercised it. Does he suppose, if a measure such as is now before the Senate had been in operation at the commencement of the Government, that the Father of his Country—a man no less distinguished by his moderation than his wisdom—would have experienced the least embarrassment from its operation? Does he suppose that the dismissal of nine officers in eight years, during his presidency, would have given all that annoyance to him and this body which the Senator anticipates from the measure? Would there have been any difficulty in the time of the elder Adams, either to himself or the Senate, from the ten officers whom he dismissed during his presidency? Would any have been experienced during Mr. Jefferson's presidency of eight years, even with the forty-two whom he dismissed? Or in the presidency of Mr. Madison, that mild and amiable man, who, in eight years of great excitement, of which nearly three was a period of war, dismissed but five officers? Or during the presidency of Mr. Monroe, who, in eight years, dismissed but nine officers? Or of the younger Adams, who, in four years, dismissed but two officers? I come now, said Mr. C., to the present administration, and here I concede that, with the dismissal of two hundred and thirty officers in the first year, and I know not how many since, the scene of trouble and difficulty, both to the President and Senate, which the Senator from Tennessee [Mr. GRUNDY] painted in such lively colors, would have occurred, had the measure been in operation.

This, however, constitutes no objection to the measure, but to the abuse; the gross and dangerous abuse of the power of dismissal which it is intended to correct. It is a recommendation that it would impede and embarrass the abuse of so dangerous a power. The more numerous and greater the impediments of such abuses, the better. I apprehend (said Mr. C.) that the Senator from Tennessee [Mr. GRUNDY] entirely misconceives the operation of the measure under a discreet and moderate administration. Under such a one the charges exhibited against an officer would be transmitted to the accused; would undergo a regular investigation in the presence of the party, and the accused would be heard in his own defence before the charge would be acted on. If sustained, and the officer be discharged, the whole proceedings would accompany the nomination of the successor, as showing the grounds on which he was dismissed.

During the time (said Mr. C.) that I occupied the place of Secretary of War under Mr. Monroe, two officers of the Government, holding civil employment connected with that Department, were dismissed for improper conduct; and in both cases the course which I have indicated was adopted. The officers were not dismissed until after full investigation, and the reasons for dismission reduced to writing and communicated to them.

But the Senator from Tennessee [Mr. GRUNDY] further objects that the construction for which we contend, would concentrate all powers of the Government in Congress, and would thus constitute the very essence of despotism, which consists, as he asserts, in uniting the powers of the three departments in one. I could (said Mr. C.) hardly have anticipated that one, whose conceptions are so clear on most subjects, would venture so bold an assertion. Has not the Senator reflected on the nature of the legislative department in our system? To make a law it is necessary, not only to have the participation of the two Houses, but that also of the Executive, except, indeed, in the case of a veto, when, as has been stated, the measure must be passed by two-thirds of both Houses. Does he not see from this, that to vest Congress, as the constitution has done, with all the discretionary power, is to vest the power not simply in the two Houses, but also in the President; and is, in fact, to require the concurrence of both departments to the exercise of such high and dangerous powers, instead of leaving it to each separately, as would have been the fact without this wise provision? I will tell the Senator that it is the doctrine for which he, and not that for which we contend, which leads to concentration--a doctrine which would leave to each department to assume whatever power it might choose; and which, in its necessary effects, as has been shown, would concentrate all the powers of the Government in the Chief Magistrate. This process has been going on under our eyes rapidly for the last few years; and yet the gentleman, who appears now to be so sensitive as to the danger of concentration, looks on with perfect indifference, not to say with approbation. We have (said Mr. C.) lost all sensibility; we have become callous and hardened under the operation of these deleterious practices and principles which characterize the times. What a few years since would have shocked and roused the whole community, is now scarcely perceived or felt. Then the dismissal of a few inconsiderable officers, on party grounds, as was supposed, was followed by a general burst of indignation; but now, the dismissal of thousands, when it is openly avowed that the public offices are the "spoils of the victors," produces scarcely a sensation. It passes as an ordinary event. The present state of the country (said Mr. C.) was then anticipated. It was foreseen, as far back as 1826, that the time would come when the income of the Government and the number of those in its employ would be doubled, and that the control of the President, with the power of dismissal, would become irresistible. All of which was urged as an inducement for the reform at that early period; and as a reason why the administration then in power should be expelled, and those opposed to them should be elevated to their places. But now, when this prophecy has been realized, we seem perfectly insensible of the danger to which the liberty and institutions of the country are exposed. Among the symptoms of the times (said Mr. C.) which indicate a deep and growing decay, I would place among the most striking the difference in the conduct of those who seek public employment before and after their elevation. In the language of the indignant Roman, they solicit offices in one manner, and use them in another. And this remark was not more true in that degenerate state of the noblest of all the Republics of antiquity, than it is of ours in the present time. It is not only (said Mr. C.) a symtom of decay, but it is also a powerful cause.

When it comes to be once understood that politics is a game; that those who are engaged in it but act a part; that they make this or that profession, not from honest conviction or intent to fulfil it, but as the means of deluding the people, and through that delusion to acquire power; when such professions are to be entirely forgotten, the people will lose all confidence in public men. All will be regarded as mere jugglers—the honest and the patriotic as well as the cunning and the profligate--and the people will become indifferent and passive to the grossest abuses of power, on the ground that those whom they may elevate, under whatever

pledges, instead of reforming, will but imitate the example of those whom they have expelled.

I, said Mr. C., rejoice, however, that there are many who are counted in the administration ranks who have a proper regard for the professions of the party while canvassing for power. I see the commencement of a separation between those who are disposed to go all lengths to abandon all former principles in the support of power, and those who are not disposed to advance beyond the point where they now stand. Let those who are disposed to sustain the power of the Executive, however extravagant, reflect on what has occurred during the present discussion, and the manly and independent sentiments which have been expressed in the ranks of the administration itself, and they will see cause to halt in their course. They have pushed things as far as they can be pushed with safety; to push them farther must end in division and overthrow.

But the Senator from New York [Mr. WRIGHT] regards all this alarm on account of the vast increase of executive power as perfectly imaginary. He contends that the view drawn in the report of the committee, as to the extent of patronage, is greatly exaggerated; and for this purpose assails that part of the report which treats of the number of those in the employ of the Government, and living on its bounty, as constituting one of the elements of executive patronage. The Senator is possessed of clear perception and strong powers of discrimination, and he anticipated, from the confident manner in which he expressed himself, that he had discovered some flaw or weakness in that portion of the report. He is not usually the man to make bold assertion without his proof; but I must say that, in this case, the Senator has disappointed me. What error or exaggeration has he discovered in the report? Has he shown the number stated to be greater than in reality it is? Has he shown that there is any error in the various heads under which they are classified? Or that there is a single class which does not contribute to swell the power and influence of the Executive? He has not even made an attempt to point out any error of the kind. He drew his number and classification from the report itself, and has not pretended to show that there has been any over estimate on the part of the committee attached to any one of the classes.

But though the Senator has not succeeded in showing an over estimate, he has labored strenuously, though I must say unsuccessfully, to show that the patronage is far less in reality than it is. The Senator would, for instance, have us lay aside the pensioners, as adding little or nothing to the patronage of the Government. I had (said Mr. C.) supposed that he was too good a judge of human nature not to know that the mere fact that a man living upon the bounty of the Government naturally disposes him to the side of power. If to this we add the fact, that the pensioner is liable to have his pension questioned, whether he is rightfully entitled to it or not, and that the decision of this question, so important to him, rests with those in power; that there are thousands who are seeking pensions who must look in the same direction for the gratification of their wishes, to say nothing of the host of pension agents, in and out of Congress, whose importance and influence with the people may depend upon their success in obtaining pensions, we may realize the vast addition which so large a pension list as ours is calculated to give to the patronage of the Executive. I am (said Mr. C.) informed that a single member, in one session, obtained upwards of three hundred and fifty pensions; and can the Senator doubt how much he was strengthened in his district by his success, when a large majority of those whom he so successfully served were probably voters? Taking every thing into consideration, so far from considering the pensions as an inconsiderable source of influence and patronage, as the Senator would have us believe, I am of impression that it is among the most fruitful sources of both; and that to the late great extension of the number of pensioners we may attribute the strength of the administration in some of the States of the Union. I have great respect for the Secretary of War and the chief of the pension bureau, and I do not wish to be considered as making any personal imputations.

The Senator from New York next tells us that the army contributes very little to the influence and patronage of the Executive; that it consists principally of soldiers, and those for the most part located on the frontiers, far removed from the scenes of political struggles. The Senator would seem to have very imperfect conceptions of the nature of the influence which an army brings to a Government. Is he ignorant that it is to be fed, and clothed, and housed, and removed, at the expense of millions, wherever employed, and that all this heavy expenditure must bring a corresponding increase of power and influence? I, for my part, (said Mr. C.) consider an army, among a spirited people, armed and accustomed to the use of arms as the Americans are, as far more dangerous on account of the patronage which it brings to the Government, than on account of its physical force; and it is mainly under this impression that I have ever been opposed to its increase beyond the point necessary to preserve proper military organization and skill.

The Senator, taking the same fallacious view, would put the navy out of the list, as contributing but little to the patronage of the Government. What I have said in reference to the army is equally applicable to the navy, and supersedes the necessity of adding any thing further.

But the final objection of the Senator is, that the patronage of the Government is not as great, as far as the number of those employed may contribute to it, as if they were all custom-house officers and some other classes of officers, which he estimates at some three or four thousand, and which, he admits, are calculated to exercise some influence. I acknowledge (said Mr. C.) they are not so powerful as they would be, if they consisted of the classes referred to by the Senator; but let me tell him, that if we had a corps of one hundred thousand such, the friends of liberty might surrender in despair. Our cause would be hopeless! The people could not resist them for six months.

I have now (said Mr. C.) concluded what I intended to say on the question involved in the third section of the bill, and will next proceed to notice some objections to the other portions of the bill. The Senator from Tennessee [Mr. GRUNDY] objects to the first section, which proposes to repeal the four years' law, on the ground that it would diminish the power of the Senate, and increase that of the President. If such was the fact, the last quarter from which I should expect such an objection would be that from which it comes. But the Senator may dismiss his fears. There is not the slightest ground for the apprehension which he professes. It is true that, without that law, the Senate would not have the opportunity of passing on the conduct of the officers who may be renominated under it; but let me bring the Senator to reflect how little influence that fact gives to the Senate, compared to the influence which the President acquires under the law over all those who must depend on him, under its provisions, for a renomination. Let him reflect how few of those renominated are rejected by the Senate, compared to those whom the President had refused to nominate, and how little influence the Senate acquires or the President loses by the rejection of the former. Should the Senate reject on party ground, it has no power to fill the place of the person rejected—that de-

pends upon the President; what, then, is the fact? The Senate makes an enemy without acquiring a friend, while the President is sure to acquire two friends without making an enemy: the rejected and the one who fills his place. If to this we add, that the present President has made it an invariable practice to reward, in some shape or other, every man rejected by the Senate, however good the cause for rejection, it must be obvious that the apprehension of the Senator from Tennessee, that the repeal of the four years' law would weaken the Senate and strengthen the Executive, is without foundation. He may dismiss all anxiety on that head.

But it is further objected, that the repeal of the four years' law would destroy the principle of rotation in office, which the Senator from Maine, [Mr. SHEPLEY,] and some others on the same side, represent as the very basis of republican institutions. We often (said Mr. C.) confound things that are entirely dissimilar, by not making the proper distinction. I will not undertake to inquire now whether the principle of rotation, as applied to the ordinary ministerial officers of a Government, may not be favorable to popular and free institutions, when such officers are chosen by the people themselves. It certainly would have a tendency to cause those who desire office, when the choice is in the people, to seek their favor; but certain it is that, in a Government where the Chief Magistrate has the filling of vacancies instead of the people, there will be an opposite tendency to court the favor of him who has the disposal of offices, and that for the very reason that when the choice is in the people their favor is courted. If the latter has a popular tendency, it is no less certain that the former must have a contrary. I, for my part, must say that, according to my conception, the true principle is, to render those who are charged with mere ministerial offices secure in their places, so long as they continue to discharge their duty with ability and integrity; and I would no more permit the Chief Magistrate of a country to displace them without cause, on party grounds, than I would permit him to divest them of their freeholds. The power to divest them of the one is calculated to make them as servile and dependent as the power to divest them of the other.

I have now (said Mr. C.) concluded what I intended to say. I have omitted several subjects which I was desirous of discussing connected with the highly important question which has so deeply occupied the attention of the Senate; but the session is so near to a close that I feel the necessity of brevity, and will therefore forego what I would otherwise say.

When Mr. CALHOUN sat down,

Mr. KANE and Mr. TALLMADGE followed, in opposition to the bill.

Mr. HILL said it would be perceived that the principles of the bill which had passed the Senate, relating to appointments of postmasters, came in direct conflict with the bill under consideration. The Post Office bill (said Mr. H.) assumes for the Senate the power of deciding on the appointment of all postmasters in those post offices the nett proceeds of which amount to one thousand dollars annually; and, to make the power of the Senate felt in those appointments, it makes provision that the postmaster shall continue in office only four years! This bill, changing the tenure by which every considerable postmaster in the country shall hold his office, is recommended by gentlemen who are the strong friends of repealing that law which limits all other officers to a term of four years. So it appears, when the Senate is grasping at more power for itself, it adopts a principle directly in the face of that which it repudiates when it would deprive the President of his constitutional power.

Some persons, for a few years past, have seemed to manifest a longing desire that the Senate should have a hand in the management of the executive departments beyond the power the Senate possesses as a co-ordinate branch of the Legislature. The new mode of appointment will enable them to punish those postmasters who shall have the independence to express their opinions on any matter which may be adverse to the opinions of a majority of the members of the Senate—to proscribe, "for opinion's sake," every man, as a partisan, who shall have the hardihood to act with the mass of the people, in any public meeting adopting resolutions that shall speak the language of freemen in relation to the acts of every public man, and every body of public men.

Did the Senate intend, by making every valuable post office dependent on their will, to create a new corps of "supple and subservient tools," such as the Senator from Kentucky [Mr. CLAY] described on Wednesday, as being first put to "silence," and afterwards compelled to become "neutrals" in politics? The Senator complained of the postmasters in Ohio, who had the hardihood to attend a political convention in that State. Doubtless, the Senator would like to lay his hands on these offenders, who have had the presumption to act with others of their fellow-citizens, and express their opinions in relation to public men; and the bill of the Senate will give warning to all postmasters not again to offend in like manner.

There seems to be a sort of hydrophobia-dread of removals from office whenever a certain party is at the bottom of the wheel. The Senator from Kentucky says the principle of dismissing men from office is a new principle; that it commenced about six years ago, when General Jackson first came into office. So great has been the burden on the mind of the Senator since that time, that he may be readily excused for not recollecting what took place during the administration immediately preceding that of General Jackson. Does he remember that the editors of two principal democratic newspapers in Maine and New Hampshire, who had "done the State some service," while contending in a fearful minority during the war with Great Britain, were proscribed because they would not put on and wear the then executive collar? Does he recollect the declaration then made by a Secretary of State (Mr. Clay) relative to one of those newspapers, when the representatives of the State requested his reasons for proscribing its editor, that he would "have no neutrals?" Does he remember that this Secretary proceeded to make these removals, as was stated at the time, even against the wishes, or without consulting the representatives of the people of those States?

The Senator has complimented the veteran Gerry for his opposition to the doctrine of executive removals in the Congress of 1789. If he had been conversant with Gerry's administration, while at the head of the Executive of Massachusetts, in 1810 and 1811, he would have seen that he carried the doctrine of removals, in just retaliation of the universal proscription by the opposite party, much farther than it ever has been carried by President Jackson. The name of the revolutionary patriot was made a by-word with the aristocracy of Massachusetts, because he had the independence to prefer his own political friends to his political enemies, in his appointments to office. He was even arrested for debt on the day of the annual election, by his political enemies, to show their spite for his fidelity to the democratic party.

The Senator says the people of the West cannot, and will not, submit to the turning out of officers; and he seems to take it for granted that the present administration alone is guilty of the enormous offence of preferring its friends to its enemies. What has the Senator himself been doing for the last six years? Have not his

nightly cogitations and his daily speeches been directed to the business of turning out the "hungry" and "haggard" crew who have obtained offices under General Jackson? Can any man believe the Senator would have consented to the confirmation of any officer differing in opinion with him, if he could, by withholding that consent, have forced the appointment of one of his political friends?

It would be difficult for any friend to the administration in the Senate soon to forget the "armor and the attitude" of the honorable Senator from Kentucky, during the session one year ago. The "Long and Hungry"* exultation at the old Hanover election in Virginia, in which our friends were turned out, and the Senator's friends were in the full tide of success, had such an impression on my mind, that I have been scarcely able to think of any thing else than "long and hungry" for office every time I have cast my eye at the seat of the honorable Senator. It was most manifest, Mr. President, that the principal pleasure then anticipated by the Senator and his friends, was that of turning every Jackson man out of office that could be reached, either by the executive, legislative, or elective power. The whole business of the honorable Senator for years seems to have been, either directly or indirectly, to bring about that state of things which should leave the coast clear to the turning out of every political enemy, that the Senator himself, and his friends, might step into their places.

Speaking of the labors of the Post Office Committee at the last session, and in anticipation of what they were to do in the recess, a Senator from Massachusetts [Mr. WEBSTER] then said: "They have had a laborious winter, and are likely to have a laborious summer. Let them go on fearlessly, and the country will appreciate their services. Let them explore all the sources of corrupt patronage; let them bring all abuses into the broad light of day; let them inquire into the number of removals of postmasters, with the alleged cause of such removals; let them inquire at whose bidding honest and faithful men have been removed to make way for partisans," &c.

Well, the Senate's committee, sitting during the recess, went into the Department agreeably to instructions, to make inquiry of the abuses of the removal of postmasters. The Postmaster General did not acknowledge their authority to catechise him as to the cause of removals. And it is my belief that the Senate alone has not the power to go into any executive department in the recess, to call the Executive to account for the reasons why it removes or appoints its subordinate agents.

Removals from office, after all, have been the great and crying sin of the Post Office Department since General Jackson came into office. From the opinions which have been advanced in the Senate chamber, we might suppose that, after a man is once seated in office, he has a right to it for life: it is very inconvenient for him to give it up, since he depends upon it for a living; he has made his arrangement to keep it, and it will but deprive his children of bread to take from him his office.

I care not whence comes such a doctrine, whether from the North or the South, the East or the West; I say no man is entitled to an office one moment longer than he is useful in that office, nor has he the right to complain if the power which gave it at any time shall see fit to take it away. When a man accepts an office, he either considers it a matter of favor to himself or favor to the public. If it be a favor to himself, how are his rights invaded by discontinuing that favor? If he accepts the office at a personal sacrifice, he ought to be thankful to be relieved of the duty.

The doctrine that once in an office of emolument, gives a man a claim to be always in office, will not stand alone. If we would see this Government become one of the most corrupt on earth, we should favor the appointment of men to office for life. And this would hardly go far enough; for the poor children who would suffer if their father was deprived of office during his life, would certainly have stronger claims to the same office after the father was dead, when they were still more helpless.

In the elder Adams's time the federalists very well understood the advantage of the influence and emoluments of office. In the State of New Hampshire, from 1797 to 1804, no man who did not subscribe to the doctrines of the alien and sedition laws could even be appointed a justice of the peace. In 1798 a democratic clergyman was turned out of the office of chaplain, after a formal trial before the Legislature, because he happened to omit naming the President of the United States in his morning prayer. All the offices, from high to low, were filled by friends to the administration. The venerable Whipple and Gardner, the one collector of Portsmouth, and the other commissioner of loans for the State, who had been appointed by Washington, were both dismissed from office by Adams, because their names were not found upon an adulatory address to the President which had been circulated at Portsmouth.

Mr. Jefferson came into the President's office in 1801; and what did he do? Without assigning his reasons to the Senate he reinstated his own political friends, and he dismissed others who were his political opponents. Whipple and Gardner were reinstated in New Hampshire. Did Mr. Jefferson place other than a political friend in any considerable office? Did he not remove officers in repeated instances, for no other reason than that they were opposed to the principles which elevated the republican party, and raised him to the presidency?

During his administration, and the greater part of that of James Madison, Gideon Granger, of Connecticut, was the Postmaster General. The post offices in 1800 were not more than one for every ten at this time. Yet, during those two administrations, in almost every considerable office a change of postmaster was made for no other reason than that the incumbent was not friendly to the administration.

In the two only towns where I ever lived in New Hampshire, changes were made of the postmaster. When but a boy of fifteen years of age, in the year 1803, I well recollect the last mail bag that was opened by Doctor Samuel Curtis, the postmaster at Amherst. The old gentleman parted with his office with great reluctance; he had fought hard against Mr. Jefferson, and he could not but consider it fair play that, inasmuch as Mr. Jefferson had succeeded, it was right that one of his friends should fill the office of postmaster. In the other town, (Concord,) George Hough, a veteran printer of a partisan newspaper, that had called Mr. Jefferson as many hard names as have been applied to President Jackson, was the postmaster. He was removed early in 1801, and a democrat and friend to the administration appointed in his place. For more than twenty years this undeviating old federalist was afterwards my neighbor, always inveterate in his political hostility, but accommodating and kind in the way of business. During the war, I can scarcely doubt he would willingly have had me tried and hung for rejoicing at American victories and urging the sons of New Hampshire to enter the army. Yet the old gentleman, in the way of business, readily united with me in the publication of a periodical work containing the debates in Congress on both sides, and public documents, which were then highly interesting to the people, two large volumes of which we printed, without asking Congress to subscribe for them. To the day of his death, on all political

* The name of a place in Virginia.

questions, he adhered to the doctrines of the aristocracy. He probably never in his life gave his vote or his influence to promote any democrat to office. Although a professing Christian of the prevailing sect, he once declared to me that it was sufficient for him if a man was a federalist, to have his support, even though he was Algerine or Turk in his religion.

These two cases are only specimens of the general turning out of federal postmasters in New England, by Gideon Granger. It was not then as it is now; there were no charges exhibited against the incumbent waiting for answers and explanations. If the democrats in any town were dissatisfied with their postmaster, they wrote to the Postmaster General, generally through John Langdon, the well-known patriot of the Granite State, and the removal was as sure to take place as the day is to succeed the night.

The removals under the administration of James Madison were even more decisive in their character than under Thomas Jefferson. All the more lucrative post offices that Mr. Jefferson had left in the hands of the federalists, were by Mr. Madison changed to other hands. In Boston, in Portsmouth, Newburyport, Hartford, Baltimore, and all other places where a change was desired, changes for political reasons alone were made: the most of them under Mr. Madison. And it is well known that, for refusing to remove the postmaster at Philadelphia, for political reasons only, at the instance and direction of the President, Gideon Granger himself was turned out of the office of Postmaster General. Looking back to the administration of Mr. Madison, it must be recollected that he had even less affection for his political opponents than almost any other President.

It will thus be seen that the doctrine of change and rotation in office is not new. The old federalists at first insisted that no democrat was fit for any office, and never suffered any to be appointed while they had the power. The democrats, as was natural, when they obtained the ascendency, as a matter of necessity, made removals of their adversaries, because, as Mr. Jefferson then said, "few died, and none resigned." From that day to this, much the largest share of permanent offices, depending on executive appointment, has been held by the party in this country adverse to popular rights. That party has not scrupled, in all instances where they had the power, to turn out their adversaries. Nor has it ceased to claim their right to remain in office, when the tables have been turned upon them. On the one hand, they never cease to cry out "proscription for opinion's sake, while, on the other, their very creed is based on that spirit of persecution which will tolerate in office, or even in prosperous business, no man who thinks differently from themselves.

It is to old Virginia, to Jefferson and Madison, that we are indebted for the republican example of doing justice to our own political friends, when we are in the ascendency. They were not quite as magnanimous as Virginians have on some occasions since been. They did not think it of so little consequence what a man's political opinions were, as to elect men as members of the Legislature who were decided political opponents, and thus give a character to one branch of her representation in Congress hostile to the principles which she has ever professed.

After the examples of Jefferson and Madison, sanctioned as they were by the strong public sentiment of the country, should it be imputed to the present administration as a crime, that it prefers its friends to its enemies? It was abundantly evident, during the panic of last winter, that a large majority of the army of office-holders in this District belonged to the opposition. Men who had been neutral before, viewing the triumph of the bank, in its great contest for power, as certain, did not hesitate to come out. Indeed, at this moment, the enemies of the administration stand a much better chance for favor than its friends, in every thing that depends on Congress. All officers who want increased salaries, increased expenditures, great appropriations, and great patronage, all who want to press doubtful claims to a favorable result, know very well on what side to look for favors.

As to removals of postmasters, I am of opinion that the present Postmaster General has been in fault, and that fault is, that he has not, in some places, made changes where he ought to have made them. There are counties in New England, with thirty, forty, fifty, and sixty post offices, and scarcely a democratic postmaster among them all. Perhaps not one in five of the post offices, in some of the New England States, is in the hands of the present administration. It is well known that the opposition party in New England not only do not suffer the friends of the administration to be appointed to any office, but that they turn every man out, whenever they find a chance. When were they ever known to elect a man to Congress, or to any considerable office, opposed to their views? It is their general practice to exclude all, from the highest to the lowest grade of office. Now, it might be supposed that a party possessing all their pride and manly bearing would scarcely deign to be whining continually, because, when they are beaten in fair fight, they are obliged to give place, in the principal offices of trust, to those whom the people have declared better deserving of the public favor than themselves.

In New Hampshire, Mr. President, we repudiate the doctrine that men have life estates in the public offices. With the republicans of that State, generally, it has become a practice to send a man to neither branch of the Legislature more than two years in succession; to elect a man Governor not more than three or four times, to choose a man representative to Congress not more than twice or thrice at most, if he be distinguished; and I hope to see the time arrive when it shall be considered a rule not to be deviated from, that no man shall be re-elected a Senator in Congress who has served for the term of six years, until a term of years shall have intervened.

The extravagant expenditures and abuses in this Government will never be fully remedied until the right of the people to instruct their Senators and Representatives shall be acknowledged in practice as it is admitted in theory—until a swift responsibility, on the part of public servants to their employers, shall be confessed—until rotation in office shall be considered a cardinal point in the republican creed. Scarcely any man can come here four or six years without being committed on some one of those precedents which are taken as the ground of unnecessary expenditure. He has some friend who wants a claim allowed, or he comes from a section of the country where a handsome appropriation for the improvement of some river, the building of some canal or road, the erection of some breakwater or lighthouse, the fortification of some harbor—will do immense good to his friends and neighbors. He goes for that claim or that appropriation; and when he has gone for it, he is bound in all good conscience to go for almost any thing that shall be proposed by any other member who has been so disinterested as to vote for his proposition. I am quite certain that it would be for the interest of every member of Congress to come here with the expectation that he shall not, in any event, continue in the House of Representatives over four years, and in the Senate beyond six years, and that he shall retire at any moment the fact shall be ascertained he is misrepresenting the voice of a majority of his constituents. Sure I am that the public interest will be better subserved

under the adoption of such a rule, than by continuing a man, once chosen for life, under the repudiated rule of a repudiated politician, that the action of "the representative ought not to be palsied by the will of his constituents." I, however, am willing that each State should regulate its own practice in relation to rotation in office. The party with whom I act in the State of New Hampshire is adopting a rule, which while it makes office accessible to every man who will deserve it, preserves the purity and economy and simplicity of its administration.

It would be more for the interest of the public service at the seat of Government if a salutary system of rotation in office should be adopted throughout. Many of the evils which now exist here would be remedied by a change of officers. The idea of dependence on the emoluments of office is degrading to a republican freeman; and it has degraded many who have spent their whole lives as clerks in the Departments, and died leaving destitute families. I would have no man expect that he is to remain in office doing servile duty, or no duty, for life. If a law should pass providing that a man should not continue in any one public employment over twelve years; if one-third of all the incumbents in bureaus of this city should be compelled to go out every four years, leaving their places to be filled by persons who, within the limits of the States, have inhaled the air of freemen, and know how to procure a livelihood without being paid an office salary, we should find a different state of things in the public offices; we should create a population at the seat of Government bearing some affinity to that indomitable spirit of our countrymen which best provides for itself on its own resources. Weakness and pusillanimity may always be expected in that child which is taught to believe that its parent will furnish its sole aliment.

I do not doubt the time will speedily arrive when offices of profit, depending as well on executive appointment as on elections by the people, will be changed from one to another, till it shall become a matter of course that each individual shall strive to qualify himself to discharge the duties of any office to which he may be called. I would even be willing to see the postmasters changed where an incumbent has enjoyed a lucrative place for years, and his more needy neighbor, who was equally capable and worthy, was in a situation to discharge the duties of the office as well, or better, than he had done. I would be glad to witness such a change, even when all were of the party friendly to the administration. As I know there never could be a change against us in the election of a President when a general turn-out of all our friends in office would not take place, so could I not count much on the value of that advice from any professed political friend who tells us that we ought, when we succeed in an election ourselves, to let our enemies remain in quiet possession of all the offices in our Government depending on the executive will.

Believing the tendency of the bill will be to give the incumbents in office a life estate in their respective offices, that it will create a corps of men having interests and feelings adverse to the spirit of our republican institutions, and to the interest and feelings of the great body of the people, I will record my vote against it.

Nevertheless, as the bill seems likely to pass this body, with my negative, I am anxious it should pass with at least one feature which I can approve. I therefore move that the bill be recommitted, with instructions that the committee report the following additional section:

"SEC. 4. *And be it further enacted*, That the proceedings of the Senate in relation to all nominations of public officers by the President shall be with open doors, and that each member may rise in his place and assign his reasons for or against the confirmation of the person nominated."

The reason for the Senate acting in public on nominations is of much greater force than in favor of the President assigning his reasons for the removal of officers. The President cannot lose his individual character in that of his office. His reasons, which are written, must all be made public sooner or later. The indignation of the individual reported against, and that of his friends, will break on his head alone, inducing even personal attacks, as we have seen in the case of a late dismissed officer of the navy. Not so the proceeding of the Senate. The individual there is lost in the corporate or collective character of the body. Hence, if there be any propriety in requiring the President to communicate his reasons for the removal of an officer, there is a much stronger reason why the action of the Senate, on all nominations made by the President, should be in full view of the people.

Mr. H. concluded by asking the yeas and nays upon his motion; which were ordered.

Mr. BENTON then moved that the Senate adjourn: Ayes 15, noes 22.

Mr. B. then made some observations in favor of the motion to recommit, but not for the purpose expressed in the instructions. He stated that he had originally supposed that this was the same bill as he had reported in 1826; but having, on examination, produced by the course of the arguments of gentlemen, discovered that it was essentially different from the bill of 1826, he should now vote against it.

Mr. HILL then withdrew his motion.

Mr. BENTON then moved to recommit the bill, with instructions to confine the operation of the third section to the class of officers named in the first section; and in other sections to make such changes as would conform the bill to the bill of 1826. He wished to avoid touching in any way the power of the President to make removals.

Mr. CALHOUN remarked that the difference between the two bills was merely verbal. The bill implies the power of removal in the President. Mr. C. read from the report of Mr. BENTON, to show that the committee then thought that the President had no power to remove from office those appointed by and with the advice and consent of the Senate, without the concurrence of the Senate.

Mr. WEBSTER wished the bill to be made precisely to conform to the third section of the bill of 1826. He wished, instead of recommittal, that the bill should be amended by general consent.

Mr. LEIGH made a few remarks on the source whence the President derived the power of removal. He was willing that the bill should be amended to conform to the wishes of the Senator from Missouri. Believing that this bill went beyond that of 1826, by including all military officers, he was desirous to have it amended in that respect without recommitment.

Mr. CUTHBERT said that the question now came up in a new aspect. He would desire to have the bill recommitted.

Mr. WEBSTER said he wished the bill to be recommitted, and he would vote for that motion without the instructions. The bill might be recommitted, and if the Senate would give permission, the committee could sit, and report the amendments in fifteen minutes.

Mr. CUTHBERT remarked on the variation of the bill from its original form, and objected to the hurrying of the bill, because the session was so near its close. He knew of no pressing exigency which demanded immediate action.

Mr. WHITE explained his views as unaltered, but he

would vote for the recommitment, to have the bill amended, so as to fix the class of officers as to the removal of whom the President should be required to give his reasons, so as to prevent any doubt hereafter.

The question was then taken on the motion to recommit, and decided in the affirmative.

Mr. CLAYTON then expressed a hope that the instructions would not be pressed, or, if pressed, would not be adopted.

Mr. BENTON withdrew his instructions.

Mr. WEBSTER moved that the committee have leave to sit during the session.

Mr. CUTHBERT expressed a willingness to withdraw his objection.

Some conversation then took place as to the operation of the rule, which would prevent final action on the bill to-night.

The committee then obtained leave to sit, and retired to amend the bill.

In a few minutes the committee returned, and

Mr. CALHOUN reported the bill with amendments conformable to the understanding of the Senate.

The amendments were then concurred in.

Mr. HILL moved to amend the bill by adding the first clause of the proposition he had offered, which provides that all deliberations on nominations shall be with open doors, and asked for the yeas and nays, which were ordered.

Mr. BUCHANAN wished the amendment to be withdrawn. It was too late an hour to make so important an amendment. He must vote against it.

The question was then taken, and decided as follows:

YEAS—Messrs. Hill, Kane, Linn—3.

NAYS—Messrs. Bell, Benton, Bibb, Black, Brown, Buchanan, Calhoun, Clay, Clayton, Cuthbert, Ewing, Goldsborough, Hendricks, Kent, King of Alabama, King of Georgia, Leigh, McKean, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Robinson, Ruggles, Shepley, Silsbee, Smith, Southard, Swift, Tallmadge, Tipton, Tomlinson, Tyler, Webster, White, Wright—40.

The bill was then ordered to be engrossed for a third reading.

The Senate adjourned at 6 o'clock.

SATURDAY, FEBRUARY 21.

RELATIONS WITH FRANCE.

Mr. SILSBEE said he had been requested to present to the Senate three memorials on the subject of our present relations with France. One of these memorials, he said, was signed by between five and six hundred of the citizens of Salem; the other two memorials were from the towns of Marblehead and Beverly, in the State of Massachusetts, and bore the signatures of a large number of the citizens of those towns. Mr. S. said that a number of these memorialists had been long personally known to him, and that he knew no individuals, here or elsewhere, more competent to form correct opinions upon the subjects to which these memorials relate, or more disposed to present an undisguised and fair exposition of their opinions, than many whose names were affixed to these memorials; and believing, said Mr. S., that the memorials express the views of the memorialists better than I can do it for them, I move that they be read.

The memorials were read accordingly.

After the reading of the memorials, Mr. SILSBEE said that, as the important subject to which these memorials relate was not now under the consideration of any committee of the Senate, and as important intelligence relating to it (the harbinger of which had already reached us) might be hourly expected, he would, at the suggestion of several friends in the Senate, move that they be printed, and, for the present, laid on the table.

On being requested by Mr. CALHOUN to withdraw the motion to print the memorials,

Mr. SILSBEE expressed his regret that he could not comply with the request of the Senator from South Carolina, and said that, strong as was his desire to avoid debate upon this subject at this time, he could not, consistently with what he conceived to be his duty to these memorialists, withdraw the motion which he had made.

Mr. POINDEXTER addressed the Senate to the following effect:

Mr. President: I understand the question before the Senate is simply to print certain memorials from Salem and other places in Massachusetts, recommending restrictive measures on the commerce of France, in lieu of war or letters of marque and reprisal, to coerce that Government into the necessary appropriations to carry the treaty of indemnity of July, 1831, into effect. But, sir, such has been the course of the debate on this proposition, that, having taken my seat after it had commenced, I was impressed with the belief that some honorable Senator had submitted to the consideration of the Senate a formal declaration of war against France. The remarks of the honorable Senator from North Carolina, [Mr. BROWN,] and of the Senator from Alabama, [Mr. KING,] seem to me to require some notice; and I beg leave to take the occasion to submit very briefly my own impressions on the subjects which have been touched in the course of the short discussion which has taken place this morning. I have no hesitation in saying that, if coercive measures of any description should become necessary to enforce the execution of the treaty on the French Chambers, I should greatly prefer to operate on her interests by commercial regulations than to resort at once to the *ultima ratio*. The honorable Senator from North Carolina has said that, although war with any foreign nation may be regarded as a calamity, it is not the greatest calamity which could befall the nation. He considers submission to the violation of national honor involved in the refusal on the part of France to fulfil the stipulations of the treaty, as a stain on our national character, which can only be wiped out by an appeal to the sword.

I confess, sir, I was somewhat surprised at the remarks of the honorable Senator. National honor! How, I ask, is the honor of this Government implicated in the bad faith of France, manifested by the non-fulfilment of the treaty of indemnity? The honor of France may well suffer under such a course of conduct; but it can reflect no dishonor on this country, in any aspect whatever. The violation of a solemn treaty in the face of the civilized world, is an act calculated to sink the national character of France in the opinion of other nations; but it is inconceivable to me how it can operate, in the slightest degree, on the honor of the American people, or of their Government. I ask the honorable Senator, if he held my obligation for one thousand dollars, and, demanding payment from me, I utterly refused to fulfil my obligation, would my act reflect dishonor on him? Would not the moral feeling of society hold me responsible for all the consequences of a refusal to do an act of justice, for which I was bound by my own solemn engagement? The common sense of mankind must respond affirmatively to these interrogatories. I can draw no distinction between national and individual obligations to pay a stipulated sum, nor between the effect to do so on the character of the delinquent, in either case.

It will be recollected that Great Britain refused to fulfil the treaty of 1783, by surrendering the northwestern posts within the acknowledged limits of the United States. These posts remained in the possession of England for more than twelve years after the date of

the treaty of peace. Did Washington consider this breach of faith, on the part of the British Government, as reflecting dishonor on America? Certainly not. All the disgrace which could attach to the non-execution of the treaty fell exclusively on Great Britain, which was in effect conceded by the ultimate delivery of the posts after the treaty of 1794. Washington did not recommend hostilities with England, to enforce the stipulations of the treaty, but left it to time and future events to secure the rights guarantied to the United States under the treaty. The wisdom of this policy has been seen and duly appreciated, and might very properly form the basis of the action of this Government in bringing to a satisfactory adjustment the difficulties which have sprung up between the United States and France in relation to the payment of the twenty-five millions of francs due to our citizens, and for the redemption of which the honor of France is, and must for ever remain, bound, unless we release her by the rash act of precipitating the two countries into an unnecessary war. The inevitable effects of war with France, or letters of marque and reprisal, recommended in the message of the President at the opening of the session, must be highly injurious to the commercial and agricultural interests of this country. It would at once throw the carrying trade into the hands of England. The insecurity of American bottoms would raise the rate of ensurance on our vessels, and thereby transfer the exportation of all the bulky articles of agriculture, annually transported to Europe, to British bottoms, in which they could be carried at a less risk, and at a smaller rate of ensurance. A war with France would operate most injuriously on the cotton interests of the South. It would bring down the price of that valuable staple commodity in a ratio corresponding with the increased rates of freight and ensurance, resulting from the increased risk of transportation. The idea of granting letters of marque and reprisal is still more preposterous than an open declaration of war. We carry on, with all Europe, the richest and most prosperous commerce of any nation in the world. Every sea is whitened by our wide-spread canvass, and every commercial city throughout the habitable globe is filled with our ships and our produce. France enjoys a commerce comparatively poor and unimportant.

Our privateers could make but little impression on French commerce by the capture of their ships. France has a marine force equal, if not superior, to our own. Thus, while every nation in Europe would fit out privateers under the French flag, to annoy and depredate on our commerce in every sea; and while French cruisers and privateers would make rich prizes of our vessels, we should be left to the miserable means of retaliation by an occasional capture of a French vessel, the cargo of which would scarcely repay the expense of its transportation to an American port. The inequality of such a contest, so far as profit is concerned, must be manifest to every gentleman who will turn his attention to the subject. What should we think of a wealthy individual who would make the proposition to his poor neighbor, that each should depredate on the property of the other, at pleasure, and according to their respective ability to make reprisals? It would assuredly be deemed an act of downright madness, or hallucination, according to the phrase recently introduced into the debates of the Senate. The poor man, with stout limbs and athletic frame, would readily engage in such an enterprise, with a most certain prospect of gain, and without the slightest possibility that he could sustain injury in such a struggle. The proposition to enter into the description of warfare and plunder, coming from this Government to that of France, would be as absurd and ridiculous as the case which I have stated, and I doubt not would be readily accepted as an alternative, to avoid the fulfilment of the treaty of indemnity. Sir, the present posture of our relations with France is the natural result of the tone and temper of the message of the President, sent to Congress at the commencement of the session. Every enlightened statesman who read that message deprecated its effects on the French Chambers, who were about to be convened to deliberate on the appropriation of the twenty-five millions of francs stipulated to be paid to the United States by the treaty. It was foreseen that this angry message must, of necessity, widen the breach between the two countries, and postpone, if not effectually prevent, the requisite appropriation. We now find that this result has happened; the French minister at Washington has been recalled, and our minister at Paris has been notified that his presence at that Court might be dispensed with. It remains to be seen whether this rupture will end in open hostilities. Should it progress to that point, no one can doubt the fatal consequences of such a state of things on the commercial prosperity of this country.

My only hope is that the report of the Committee on Foreign Relations in the Senate, and the unanimous vote by which it was adopted, may reach France in time to allay the excitement produced by the message, and that thereby the amicable relations which have heretofore subsisted between us and our ancient friend and ally may be restored, and placed on a safe and solid foundation. Sir, we have just closed the payment of the debt of the Revolution, and the debt incurred in the late war with Great Britain. The nation is now in a most enviable condition in reference to its fiscal concerns, and the general prosperity which pervades every branch of industry. Shall we disturb this state of things, and create a new debt of perhaps $100,000,000, by the adoption of measures leading directly to war, for the paltry consideration of $5,000,000, the non-payment of which reflects no dishonor on this nation, and which, if not paid by France, must sink her into disgrace with all the civilized nations of the earth? The idea of substituting blows for the action of assumpsit, to enforce the payment of a debt due either from Government or individuals, is a new theory in the science of national or municipal law, for which we are indebted to the sciola which has sprung into existence under this blessed administration. I shall vote, sir, for printing the memorials which have been presented this morning, and, if it shall become necessary to retaliate on France for a violation of her treaty, I cannot hesitate between the alternatives of war or reprisals, and the more appropriate and salutary measure of restrictions on French commerce, to bring her to reason by operating on her interests.

[In reply to the remark of a Senator, to the effect that it was very probable that in a short time the President's message would be referred to by his friends with pleasure, and his opponents would be anxious to sink its memory—]

Mr. LEIGH assured the gentleman from Missouri, that if the message of the President, at the opening of the session, should, in the result, produce a happy instead of a prejudicial effect on our relations with France; if the message should have the effect of inducing the French Legislature to make provision for carrying the treaty into execution on their part, instead of exciting feelings of resentment which might prevent or retard that act of justice, he (Mr. L.) would be as much rejoiced as the gentleman from Missouri could possibly be at such a result. He was anxious to preserve, uninterrupted, the amicable relations between this country and France, so beneficial to both, so important to their mutual interests in every commercial and political point of view. He was as solicitous as any gentleman could be, that France should promptly execute the treaty on her

part; and, therefore, he should feel grateful to any functionary of this Government who should, by any effort he should make, contribute to the accomplishment of so desirable an object. At the same time, looking to the permanent relations of amity between the two countries, he would rather, for his own part, owe the satisfaction of our just expectations to the sense of justice of the French authorities, than to any measures of our own, especially measures of a coercive nature or tendency. And he begged leave to express, on this occasion, his earnest wish that gentlemen, in public debate here on this delicate subject, would bear constantly in mind that there are two parties to the question of peace or war between us and France; a question on which he could not help hoping there would be no occasion to deliberate. There was no such occasion now, as all agreed: that it does not depend on us alone, whether we shall continue in perfect amity or be involved in hostilities with France; that she is likely to be as sensible to any thing that touches her national honor, as we can be to whatever may affect ours; and at least as prompt to vindicate her national honor, if she thinks it necessary, by a resort to arms. He should carefully avoid any discussion of the general subject; but he could not refrain from expressing his regret that the letter of Mr. Livingston, recommending that a high tone should be assumed towards France, as most likely to induce the execution of the treaty on her part, had been given to the public. It might be right enough that the minister should suggest to our Government any course which he considered wise and politic; but, as the letter, if it should produce any impression at all on the sentiments of the French Government or the French public, was, he thought, calculated to produce an unfavorable one, and as he could discern no good to which the publication of it could tend, and the publication seemed to him wholly unnecessary, he could not but think the publication unfortunate and injudicious. Whether it would prove seriously mischievous or not, time only could show.

Mr. WEBSTER said he was surprised that such a debate should arise on a motion to print a memorial, considering the importance and delicacy of the question, and the state of the information before the Senate. He was not in his place, not having come from the committee room, when his colleague presented the paper, but he found, from the remarks of gentlemen since he had taken his seat, that the occasion had been taken to express strong opinions on the subject of our relations with France. He hoped, most sincerely, the discussion would not be pursued at present. If it were, he should be quite obliged to express his own sentiments, because he was bound to say that they differed from the opinions which had already been uttered by those for whom he entertained much respect. He could not consider the question between us and France as a mere question about a debt; a controversy only about so much money. He thought, certainly, that the question was of a much graver and higher character. He was anxious, most anxious, to preserve the peace of the country, without sacrificing, at the same time, its honor and dignity. He still hoped that these objects were not incompatible; he still trusted that peace might be maintained, without discredit or reproach, and without sacrificing any right, or any interest of this country, or any of its citizens. That, however, depended much on the course adopted by others. But, at present, the Senate was in no condition to discuss or consider this high subject. No official communication was before them. All they had was a paragraph from a French newspaper. It seemed to him, in all points of view, to be much wiser to wait till official communications shall be received, in the usual and regular way. He earnestly hoped the discussion would not proceed.

Mr. BUCHANAN said he entirely concurred in the sentiments expressed by the Senator from Massachusetts, [Mr. WEBSTER.] We ought not now to discuss the French question, on the printing of this memorial. We have not yet received any official information from France. All the news we have is derived from the English journals. In this state of the case, is it proper, is it becoming, that the American Senate should commit itself, in any manner, upon the course which may be demanded by the interest and honor of the country? Ought we not to reserve ourselves until all the circumstances attending the late transactions in France may be placed before us in an authentic form?

For his own part, Mr. B. had yet seen nothing to shake the opinion which he had formerly expressed to the Senate, that the only mode of obtaining justice from France was to express our determination firmly that justice must be done. He, however, deprecated further debate at this time, and hoped the memorial would be ordered to be printed without further discussion.

The memorials were then laid on the table, and ordered to be printed.

EXECUTIVE PATRONAGE.

The bill to repeal the first and second sections of the act to limit the term of office of certain officers therein named was read a third time, and passed by the following vote:

YEAS—Messrs. Bell, Benton, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, King of Georgia, Leigh, McKean, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, White—31.

NAYS—Messrs. Brown, Buchanan, Cuthbert, Hendricks, Hill, Kane, King of Alabama, Knight, Linn, Morris, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Wright—16.

The following bill was then read a third time and passed:

A bill for the relief of David Beard:

[On this bill, Mr. HILL asked for the yeas and nays, which were ordered; and after a few remarks from Mr. WEBSTER, on the extraordinary practice which had recently crept into the Senate, to oppose bills on their third reading, the question was taken, and decided in the affirmative: Yeas 38, nays 2—Mr. Hill and Mr. Shepley.]

BRANCHES OF THE MINT.

On motion of Mr. WAGGAMAN, the Senate resumed, as in Committee of the Whole, the bill to establish branches of the mint of the United States.

After some remarks from Mr. BROWN,

Mr. CLAY moved for the indefinite postponement of the bill. He reiterated his opposition to the bill, and contended that the mint at Philadelphia was fully competent to do all the coinage which the country required. He denied the correctness of the argument that the mint at New Orleans was necessary to prevent the transportation of the bullion to Philadelphia. It would find its way to the great commercial marts of the country at all events, whether coined or not--he considered it therefore unwise and injudicious to establish these branches. He supposed it would gratify the pride of the States of North Carolina and Georgia, to have them there, where they might conveniently go and get out the precious metals; but when the objections to the measure were so strong, he could not consent to yield his opposition to it. He moved the indefinite postponement, and asked the yeas and nays upon the motion; which were ordered.

Mr. MANGUM regretted that the gentleman had not

all the information which was necessary to enable him to understand this subject; if he had, Mr. M. thought he would not oppose the bill. He thought the necessity to multiply the number of American coins was manifest, and the actual loss of transporting the bullion and foreign coins to Philadelphia for coinage was about three and three-quarters per cent.; a loss which must retard the increase of the coinage. With respect to gratifying the pride of the Southern States, he would tell the gentleman they had none to gratify. The actual loss in the gold region of Georgia and North Carolina far exceeds the expense of all the necessary buildings for these establishments. He saw no evil in the multiplication of these mints. It was well said by the gentleman from Missouri, when the bill was up before, that, in the commentaries upon the constitution, it was understood that branches of the mint might be multiplied. He was willing to establish branches wherever the natural advantages of the country required them.

Mr. FRELINGHUYSEN thought the object of having a mint was mistaken, when he heard gentlemen say that there were great quantities of gold in the southern quarter of the country, and asked the Government to establish mints there for their accommodation. The mint was established for the accommodation of the Government, and he thought the present one sufficient. Why put an additional burden on the Government because the people in that section have been so fortunate as to find gold in abundance? The plain answer is, if you have found gold, you ought to be the last to ask the aid of the Government in transporting it to Philadelphia. The manufacturer asks no aid in transporting his productions to market, and how is the case of the gold digger any stronger? He wished gentlemen to answer this objection.

Mr. BROWN said, the gentleman from New Jersey asked why we apply to Congress to relieve us from the burden of transporting our bullion to be coined, when the manufacturers of the North did not ask to be paid for transporting their material. Mr. B. said it was true they have not applied for this assistance, but they have applied for that which is much more substantial—protection. The people of the South ask no protection; they rely on their own exertions; they ask but a simple act of justice, which is extended to other parts of the Union; they ask for their rights, under the regulation of Congress, the right to coin money. But the gentleman from Kentucky says that there is no expense imposed upon the South by way of transporting their bullion; that the burden would be the same as if it was coined there. The remark of the gentleman is founded in mistake. What are the facts? Can the bullion of North Carolina be circulated as a circulating medium? We all know it cannot be done, and its value, therefore, must be necessarily curtailed, and it must be transported at great risk, trouble, and expense. The annual loss sustained by the citizens of North Carolina from these causes amounts to a sum which is very serious to them. But they suffer a much greater loss than the returns of the mint disclose. Much of their gold is sent to South Carolina and Georgia, and from thence it is sent to the mint as Georgia and South Carolina gold, when in fact it is North Carolina gold. Another reason for the passage of the law, and one which he hoped would not be less regarded by the gentlemen on the other side of the house, was that the measure would be auxiliary to the restoration of the metallic currency of the United States, and contribute to bring the Government back to that currency which was contemplated by the constitution.

A protracted and discursive debate then ensued, in which Messrs. FRELINGHUYSEN, MANGUM, CALHOUN, BENTON, PORTER, WEBSTER, GOLDSBOROUGH, CLAY, and EWING, participated, when the principles of the gold bill of last session were fully gone into.

Mr. BENTON took the high ground of constitutional right to the establishment of these branches, and as many more as the interests of the States required. He referred to the Federalist, No. 44, written by Mr. Madison, to prove that, in surrendering the coining power to the federal Government, the States did not surrender their right to have local mints. He read the passage from the number which he mentioned, and which was the exposition of the clause in the constitution relative to the coining power. It was express and clear in the assertion that the States were not to be put to the expense and trouble of sending their bullion and foreign coins to a central mint to be recoined, but that as many local mints would be established, under the authority of the general Government, as should be necessary. Upon this exposition of the meaning of the constitution, Mr. B. said, the States accepted the constitution; and it would be a fraud on them now to deny branches where they were needed. He referred to the gold mines in North Carolina, and the delay with which that State accepted the constitution, and inquired whether she would have accepted it at all, without an amendment to secure her rights, if she could have foreseen the great discoveries of gold within her limits, and the present opposition to granting her a local mint. That State, through her Legislature, had applied for a branch of the mint years ago, and all that was said in her favor was equally applicable to Georgia. Mr. B. said the reasons in the Federalist for branch mints were infinitely stronger now than when Mr. Madison wrote, in 1788. Then the Southern gold region was unknown, and the acquisition of Louisiana not dreamed of. New Orleans and the South now require branch mints, and claim the execution of the constitution as expounded by Mr. Madison.

Mr. B. claimed the right to the establishment of these branches, as an act of justice to the people of the South and the West. Philadelphia could coin, but not diffuse the coin among them. Money was attracted to Philadelphia from the South and West, but not returned back again to those regions; local mints alone could supply them. France had ten branch mints; Mexico had eight; the United States not one. The establishment of branches was indispensable to the diffusion of a hard-money currency, especially gold; and every friend to that currency should promote the establishment of branches.

Mr. B. said there were six hundred machines at work coining paper money—he alluded to the six hundred banks in the United States—and only one machine at work coining gold and silver. He believed there ought to be five or six branch mints in the United States; that is, two or three more than provided for in this bill: one at Charleston, South Carolina; one at Norfolk or Richmond, Virginia; and one at New York or Boston. The United States Bank had twenty-four branches; give the United States mint five or six branches, and the name of that bank would cease to be urged upon us. No body would want her paper when they could get gold.

Mr. B. scouted the idea of expense on such an object as this. The expense was but inconsiderable in itself; it was nothing, compared to its object—for the object was to supply the country with a safe currency, with a constitutional currency; and currency was a thing which concerned every citizen. It was the point at which the action of Government reached every human being, and bore directly upon his property, upon his labor, and upon his daily bread. The States had a good currency when this federal Government was formed; it was gold and silver for common use, and large bank notes for large operations. Now the whole land is infested with

a vile currency of small paper, and every citizen was more or less cheated. He himself had but two bank notes in the world, and they were both counterfeits, on the United States Bank, with St. Andrew's cross drawn through their faces. He used nothing but gold and silver since the gold bill passed.

In reply to Mr. FRELINGHUYSEN, who asked where was the gold currency? he would answer, far the greatest part of it was in the vaults of the Bank of the United States and its branches, to be sold or shipped to Europe, or, at all events, to be kept out of circulation, to enable the friends of the bank to ask, where is the gold currency? and then call the gold bill a humbug. But he would tell the gentleman where a part of the gold was; it was in the Metropolis Bank in this city, and subject to his check to the full amount of his pay and mileage. Yes, said Mr. B., now, for the first time, Congress is paid in gold, and it is every member's own fault if he does not draw it and use it.

Mr. B. said this question concerned the South and West, and he would hope to see the representatives from these two sections united in support of the bill. He saw, with pleasure, that several gentlemen from the north of the Potomac, and from New England, were disposed to support it. Their help was most acceptable on a subject so near and so dear to the South and West. Every inhabitant of the South and West was personally interested in the success of the bill. From New Orleans, the new coin would ascend the Mississippi river, scatter itself all along its banks, fill all its towns, cities, and villages; branch off into the interior of the country, ascend all the tributary streams, and replenish and refresh the whole face of the land. From the southern mints, the new gold would come into the West, and especially into Kentucky, Ohio, and Tennessee, by the stock drivers, being to them a safe and easy remittance, and to the country a noble accession to their currency; enabling them quickly to dispense with their small notes.

It was asked, Mr. B said, what loss has the western people now sustained for want of gold? He would answer that the whole West was full of counterfeit paper; that counterfeit paper formed a large part of the actual circulation, especially of the United States Branch drafts; that, sooner or later, all these counterfeits must stop in somebody's hands, and they would be sure to stop in the hands of those who were least able to bear the loss. Every trader down the Mississippi, Mr. B. said, was more or less imposed upon with counterfeit paper; some lost nearly their whole cargoes. Now, if there was a branch mint in New Orleans, every one would get new gold. He could get it direct from the mint; or have his gold examined there before he received it. Mr. B. said that one great object of establishing branch mints was to prevent and detect counterfeiting. Such establishments would detect every counterfeit piece, and enable every body to have recourse to a prompt and safe standard for ascertaining what was genuine and what not. This was a great reason for the ten branches in France.

Mr. B. was against the paper system. He was against all small notes. He was against all paper currency for common use; and, being against it, he was in favor of the measures that would put down small paper and put up gold and silver. The branching of the mint was one of the indispensable measures for accomplishing that object, and therefore he was for it. He was in favor of practical measures. Speeches alone would not do. A gentleman might make a fine speech in favor of hard money, but unless he gave votes in favor of measures to accomplish it, the speech would be inoperative. Mr. B. held the French currency to be the best in the world, where there was no bank note under 500 francs, (near $100,) and where, in consequence, there was a gold and silver circulation of upwards of five hundred millions of dollars; a currency which had lately stood two revolutions and one conquest, without the least fluctuation in its quantity or value.

New Orleans, he said, occupied the most felicitous point in America for a mint. It was at the point of reception and diffusion. The specie of Mexico came there; and when there, it ascended the river into the whole West. It was the market city—the emporium of the great valley; and from that point every exporter of produce could receive his supply and bring it home. Mr. B. reiterated that this was a question of currency; of hard money against paper; of gold against United States Bank notes. It was a struggle with the paper system. He said the gold bill was one step; the branching the mint would be the second step; the suppression of all notes under twenty dollars would be the third step, towards getting a gold and silver currency. The States could do much towards putting down small notes; the federal Government could put them down, by putting the banks which issued them under the ban; or, what was better, and best of all, returning to the act of 1789, which enacted that the revenues of the federal Government should be received in gold and silver coin only!

The question to postpone was determined in the negative by the following vote:

YEAS—Messrs. Bell, Buchanan, Clay, Ewing, Frelinghuysen, Goldsborough, Hill, Knight, McKean, Naudain, Prentiss, Robbins, Smith, Southard, Swift, Tipton—16.

NAYS—Messrs. Benton, Bibb, Black, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Moore, Morris, Poindexter, Porter, Preston, Robinson, Shepley, Silsbee, Tallmadge, Tyler, Waggaman, Webster, White, Wright—27.

Mr. CLAY made some further remarks in opposition to the bill, and, with a view to test the opinion of the Senate, he moved its recommitment to the Committee on Finance, with instructions to amend the bill so as to authorize the establishment of one branch only; upon which motion he asked the yeas and nays, which were ordered.

After some further remarks from Messrs. POINDEXTER, WAGGAMAN, CLAY, and CALHOUN, the question was determined in the negative by the following vote:

YEAS—Messrs. Bell, Black, Buchanan, Clay, Ewing, Frelinghuysen, Goldsborough, Hill, Knight, McKean, Naudain, Prentiss, Robbins, Smith, Southard, Swift, Tipton, Tomlinson—18.

NAYS—Messrs. Benton, Bibb, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Moore, Poindexter, Porter, Preston, Robinson, Ruggles, Shepley, Tallmadge, Tyler, Waggaman, White, Wright—24.

Mr. CLAY then moved to postpone the bill till Monday next, and, on that motion, he asked the yeas and nays, which were ordered; and the question was determined in the negative: Yeas 20, nays 22, as follows:

YEAS—Messrs. Bell, Buchanan, Clay, Ewing, Frelinghuysen, Goldsborough, Hill, Knight, McKean, Moore, Naudain, Poindexter, Prentiss, Robbins, Shepley, Smith, Southard, Swift, Tipton, Tomlinson—20.

NAYS—Messrs. Benton, Bibb, Black, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Porter, Preston, Robinson, Ruggles, Tallmadge, Tyler, Waggaman, White, Wright—22.

Mr. CLAY then moved another section, as an amendment to the bill, authorizing the establishment of a branch of the mint at Louisville, Kentucky.

Mr. C. made some remarks in support of the amendment, and Mr. MANGUM, Mr. BIBB, and Mr. WAGGAMAN, opposed it.

The motion was disagreed to without a division.

The bill was then reported to the Senate; and the question being on concurring in the amendments made, as in Committee of the Whole, Mr. CLAY moved further to amend the bill by reducing the salary of the superintendent of the branch at New Orleans from $3,000 to $2,000 per annum; and upon that motion demanded the yeas and nays; which were ordered, and are as follows:

YEAS—Messrs. Buchanan, Clay, Ewing, Goldsborough, Hendricks, Hill, McKean, Moore, Morris, Naudain, Prentiss, Robbins, Shepley, Smith, Southard, Swift, Tipton, Tomlinson, Webster—19.

NAYS—Messrs. Benton, Bibb, Black, Brown, Calhoun, Cuthbert, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Poindexter, Porter, Preston, Robbins, Ruggles, Tallmadge, Tyler, Waggaman, White, Wright—22.

So the amendment was disagreed to.

Mr. CLAY then moved a further amendment, to reduce the salary to $2,500 per annum; and upon that motion demanded the yeas and nays; which were ordered, and are as follows:

YEAS—Messrs. Buchanan, Clay, Ewing, Goldsborough, Hendricks, Hill, Linn, McKean, Moore, Morris, Naudain, Prentiss, Robbins, Ruggles, Shepley, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Webster—22.

NAYS—Messrs. Benton, Bibb, Black, Brown, Calhoun, Cuthbert, Kane, King of Alabama, King of Georgia, Leigh, Mangum, Poindexter, Porter, Preston, Robinson, Tallmadge, Tyler, Waggaman, White, Wright—20.

So the Senate agreed so to amend the bill.

Mr. EWING then moved to amend, by reducing the salary of the treasurer at New Orleans from $2,000 to $1,500.

Mr. CLAY moved that the Senate adjourn; which was lost: Yeas 15, nays not counted.

The question recurring on the amendment, it was determined in the negative, on a division: Yeas 20, nays 21.

Mr. EWING then moved further to amend, by reducing the salary of the chief coiner from $2,000 to $1,500 per annum, and demanded the yeas and nays on the motion; which were ordered, and it was determined in the negative by the following vote:

YEAS—Messrs. Buchanan, Clay, Ewing, Goldsborough, Hill, Knight, McKean, Moore, Morris, Naudain, Prentiss, Robbins, Shepley, Smith, Southard, Swift, Tipton, Tomlinson—18.

NAYS—Messrs. Benton, Bibb, Black, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Poindexter, Porter, Preston, Robinson, Ruggles, Silsbee, Tallmadge, Tyler, Waggaman, Webster, White, Wright—25.

Mr. CLAY then moved to reduce the salaries of the assayer, melter, and refiner, from $2,000 each to $1,500; which was disagreed to.

On motion of Mr. CLAY, the salaries of the two clerks were reduced from $1,700 to $1,200 each.

Mr. CLAY then moved to reduce the salaries of the two superintendents of the branches in North Carolina and Georgia from $2,000 to $1,500 each; and on that motion demanded the yeas and nays; which were ordered, and are as follows:

YEAS—Messrs. Bell, Buchanan, Clay, Ewing, Goldsborough, Hill, Knight, McKean, Morris, Naudain, Prentiss, Robbins, Shepley, Smith, Southard, Swift, Tipton, Tomlinson—18.

NAYS—Messrs. Benton, Bibb, Black, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Mangum, Poindexter, Porter, Robinson, Ruggles, Silsbee, Tallmadge, Tyler, Waggaman, Webster, White, Wright—24.

So the motion was disagreed to.

The bill was then ordered to be engrossed for a third reading.

THE HON. GEORGE POINDEXTER.

The CHAIR laid before the Senate a letter from the honorable GEORGE POINDEXTER, in the following terms:

WASHINGTON CITY, FEBRUARY 21, 1835.

SIR: I address you, as the presiding officer of the Senate, on a subject involving a criminal charge, highly injurious to my moral character, and which, if true, ought to cause my expulsion from the august body of which I am a member. An article, in the form of a letter from a person in this city to his correspondent in New York, has found its way into the public prints, and has already been widely circulated throughout the country, alleging "that the administration was possessed of depositions taken from three individuals who swear that Richard Lawrence, the assassin, was seen by them in the private room of the honorable George Poindexter, the two days immediately anterior to his attempting the life of General Jackson."

No one, I presume, sir, can mistake the purpose for which these depositions have been procured. The evident design is to fix on me the most infamous of all crimes, that of having been an accessary before the fact to an attempt to take the life of the Chief Magistrate, by the hand of an assassin! A charge so monstrous, and so repugnant to the tenor of my past life, resting simply on the authority of an anonymous letter, in the columns of a newspaper, might well be placed to the general account of the calumnies of the day, which have of late been so freely cast on me, and, as such, would scarcely merit contradiction from me. But the investigation which I have thus far given to the conspiracy against my character has enabled me to trace the authority on which the statement in the letter referred to was founded, to a member of the House of Representatives from Rhode Island, and the depositions therein spoken of have been taken at the instance of the President himself. Having ascertained these facts, I deem it to be a duty which I owe to myself, to my constituents, to society at large, and to the Senate, to ask the appointment of a special committee, clothed with powers to send for persons and papers, and to inquire into the truth or falsehood of the charges imputed to me, having relation to the Chief Executive Magistrate of the nation, that, if found guilty, I may no longer disgrace the seat which I occupy in this body.

I have the honor to be, with great respect, your obedient servant, G. POINDEXTER.

WASHINGTON, FEBRUARY 21, 1835.

Hon. GEORGE POINDEXTER: In reply to your note, which I received this morning, I am at liberty to state, in answer to the interrogatory which you have propounded, "in whose hands did you see the affidavits of which you speak?" that the affidavits were by me read at the house of the President of the United States; they were handed to me, in his presence, by a friend of his, by me returned to the President, and were put into his hands by the affiants themselves, as I have been informed by him; and I am further authorized to say that other testimony of the kind is expected.

Your very ob't servt,
DUTEE J. PEARCE.

The letters having been read by the Secretary,

Mr. CLAY rose and said that the communication which had just been read could inspire no other sentiments in the bosom of every Senator present, but those

of the deepest regret. He had hoped, when he saw the article, to which the letter of the honorable Senator referred, in a newspaper, that it was without the slightest foundation; and he was unwilling yet to believe in the possibility of the truth of the statement contained in the accompanying letter. That *ex parte* affidavits, implicating the character of a Senator of the United States should have been drawn without notifying him—without the slightest intimation that they were to be taken—and that they had been procured at the instance of the Chief Magistrate, and put on file, to be used by him, when and how he might think proper, was not to be believed but upon the highest and most authentic evidence. He would say it was not possible for him yet to credit the statement, imposing as was the form in which it was presented. It was impossible for him to credit that any human being could conceive of such a plan for injuring a fellow-citizen, without notice, without the smallest opportunity to him to procure affidavits from persons unknown, and put them away, to be used on some subsequent occasion, when it might be impossible to contradict their statements, or to adduce any exculpatory evidence.

He was most reluctant to believe it, and would not believe it but upon higher evidence than that which was exhibited, respectable as it was. It was sufficient, however, to form the basis of an inquiry. And the communication which had been read called upon the Senate to perform a most painful and unpleasant duty: and this, when there was a remnant of but seven or eight days before the termination of the session, and the close of the official existence, at least for the present, of the Senator who stood implicated. The time, therefore, within which the investigation was to be made, it was much to be regretted, was extremely circumscribed. Short as it unfortunately was, there could not be two opinions as to the course which the Senate was bound to take. Its duty to its own character and dignity, and to all concerned, demanded the investigation.

If it were possible to believe, and it should turn out on the investigation to be established, that the Senator had had the slightest participation in the atrocious attempt to assassinate a fellow-citizen, and he the President of the United States, the Senate would be called upon to perform the painful duty indicated by the Senator himself, of purging the body of such an unworthy member. On the contrary, if the result of the inquiry should be, as he must believe it would be, to establish that there is not the slightest foundation for the charge; or if, as he must also hope, there is no ground for the allegation that the President has possession of *ex parte* affidavits, implicating the Senator, he would stand acquitted, and be in a condition to discharge the high duties appertaining to his station. It was due, therefore, to the country, to the purity of the Senate, and to the cause of truth and justice, that the inquiry should be instituted.

Taking that view of the matter, on the spur of the occasion, (for the communication had come upon him at rather an unexpected moment; and he could have wished that some other Senator had taken charge of it,) he would move that a committee be appointed, according to the request contained in the communication.

The committee was then ordered by the unanimous vote of the Senate.

Mr. CLAY proposed that it consist of five; and entreated the Senate to forbear extending towards him the accustomed urbanity generally shown to the mover of a proposition, by leaving his name off the committee.

The Senate proceeded to ballot for a committee; when it was found that the following Senators were elected: Messrs. SMITH, MANGUM, KING of Georgia, WRIGHT, and TYLER.

The Senate then adjourned.

MONDAY, FEB. 23.

JUDICIAL CIRCUITS.

On motion of Mr. FRELINGHUYSEN, the Senate proceeded to consider the bill supplementary to an act to amend the acts relating to the judicial system of the United States.

On motion of Mr. FRELINGHUYSEN, the bill was amended, so as to fill the blanks for the times and places for holding the circuit courts in the States named, as follows:

In Louisiana, at New Orleans, on the third Monday in January, annually.

In Mississippi, at Natchez, on the first Monday in April, annually.

In Illinois, at Vandalia, on the third Monday in June, annually.

In Missouri, at St. Louis, on the first Monday in September, annually.

In Alabama, at Mobile, on the second Monday in October, annually.

In Indiana, at Indianapolis, on the first Monday in September, annually.

In Delaware, at Newcastle, on the third day of June, and at Dover, on the twenty-seventh day of October, annually.

In Maryland, at Baltimore, on the eighth day of May, and the eighth day of December, annually.

In cases where the day fixed shall fall on Sunday, it is provided that the court shall be held on Monday.

The amendments having been gone through,

Mr. BENTON rose and said he felt himself bound to oppose the bill. He could not think of permitting such a measure as that to go through the Senate, without making every resistance to it which it was in his power to put forth; for, so far as concerned his section of the country, it was a perfect monstrosity. It gave them a judicial circuit which was to extend—where? Why, almost from the Gulf of Mexico to Lake Michigan—from the torrid to the frigid zone; and a term was to be held once a year. The Senator had better at once have proposed that a court should be held once in twenty or thirty years. The two Senators from Indiana and Illinois had informed him [Mr. B.] that they were not consulted as to the provisions contained in the bill; and his colleague, too, had also given him to understand the same thing.

[Mr. FRELINGHUYSEN said: Does the honorable gentleman's colleague say he was not consulted?

Mr. LINN replied that he had been spoken to by the honorable Senator, and that he [Mr. L.] had suggested an amendment, which was made to the bill.

Mr. FRELINGHUYSEN said he had understood from a member of the Judiciary Committee, to whom he gave the times of holding the courts, about a fortnight ago, that western Senators preferred inserting that provision when the bill should be called up. He, [Mr. F.,] therefore, could not help expressing his astonishment at what the honorable Senator from Missouri [Mr. BENTON] had said.]

Mr. BENTON continued. He believed the gentleman near him, from Alabama, [Mr. KING,] was not consulted. The two gentlemen from Illinois were not consulted. So that there were six Senators with whom there had not been the slightest consultation upon the structure of this bill. It is the first time in the history of the American Senate, of a bill having been framed, making provision for three entire States, without consultation with the six Senators of those States: and, therefore, when this bill was reported, he determined it should not pass without emphatical opposition from him, before the Senate and the whole American people. This important bill is brought up here during a short session,

and at the eleventh hour, for rearranging the whole judicial system of the United States. As regards filling these blanks, Mr. B. said that, so far as Missouri was concerned, as to time, he had as lief it was filled with doomsday; and, as to distance, with the antipodes. His constituents would not be bamboozled with such a bill. A circuit of such extent was mockery, mockery, mockery, to the people of Missouri. Under the name of a circuit court, there is a total impossibility in the way of carrying it into execution. No man, who is fit to be a judge, will suffer himself to be appointed for it. Look at the circuit. Louisiana is at one end of it; and then you are to take a huge leap over Tennessee and Kentucky, the Cumberland and Ohio rivers, and then alight on the borders of Lake Michigan. The middle of this distance is cut off by another circuit. Can such a circuit be thought possible for practical purposes? The only result can be, to answer a temporary purpose, and an object which is not visible on its face.

What is the object of this bill? Certainly nothing for the good of the people. Mr. B. said he had seen, in some of the papers, that Mr. Benton moved to go into executive session, for the purpose of despatching the executive business on hand. He never made any such motion, nor any movement in favor of such a nomination as that alluded to. But it was made forty days ago. Do we suppose here, that the people are blind, and that every body does not know that we have slept? And now, at the end of forty days, we are to be bamboozled, and the Western Senators are to suffer such a bill to pass without opposing it? There is an old maxim, that "there are many ways to kill a dog;" and "there are two ways to drown a man." One is to throw him overboard, and another is, to "scuttle the ship and let him go to the bottom." He might speak in enigmas, but they would be perfectly intelligible to Senators at least. No man would consent to receive the salary and perform such duties. Mr. B. then alluded to the number of circuits and terms in the Eastern States, and contended that there was no impartiality in extending the proposed circuit over such an immense district, giving to it only one term a year. It is said to be only deluding the people with expectations which they will never realize. What is the complaint with respect to the present organization? It is that there is now no judge on the Supreme Court bench having a knowledge of the practice of the civil law. And if a judge from the North should be sent to New Orleans, the same difficulty would exist—he would have no knowledge of the civil law. There ought, therefore, to be a judge upon the Supreme Court bench from Louisiana. He said he had not seen the bill, and therefore did not know how this judge was to be shot from one end of the circuit to the other. How are you to transport him? By steam? There is no steam to effect it. And to get over land from New Orleans to Lake Michigan must depend on a series of connecting conveyances. He thought we ought to wait for organizing this circuit till we have arrived at a greater art in ærial navigation. Or perhaps the judge might, in his journeys south, be transported by one of those flights of wild geese which periodically emigrate from the north, if he could manage to have his car attached to them. Sir, said Mr. B., it will require something more than mere appearances to induce the people to suppose that this bill is introduced for the purpose of extending judicial circuits to the West. We say that this circuit should be given to Louisiana; and although we desire its benefits also, yet we are willing to give it to Louisiana, and wait till justice can be done us under the census of 1840. We come in to the aid of Louisiana, and therefore we are willing that the bill should be amended so as to give to her two courts a year, and a judge of the Supreme Court. The amendment proposes that there shall be a chief justice and eight associate judges of that court. The eighth circuit to be formed of Louisiana, Alabama, and Mississippi, and the judge to be appointed in that circuit and reside there. There is also a section in the amendment providing for transferring the business of the district court into the circuit court, which he believed was wanting in the bill.

He concluded by offering an amendment to the bill, the effect of which was, to leave the present circuit courts precisely as they stand at this time, and to add an eighth judge, to be assigned to the States of Louisiana, Mississippi, and Alabama—thus leaving all the northwestern circuits for the present unsupplied.

Mr. B. then moved to have this amendment to, or substitute for, the bill, printed; that the bill be laid on the table for the present, and that the Senate proceed to the consideration of executive business.

Mr. BENTON withdrew his motion to lay the bill on the table at the request of

Mr. FRELINGHUYSEN, who said: I did not expect the kind of opposition that has assailed this measure. The Senator from Missouri [Mr. BENTON] has been pleased to denounce the bill as a monstrosity, and charge it with the effect of bamboozling his constituents, and all the West. Sir, I am not disposed to be moved by hard words; they certainly cannot enlighten, and they do not intimidate. The proposition that has led to this measure was submitted to the consideration of the Senate in the honest discharge of my public duty, with no purpose inconsistent with a just regard to the claims of every portion of our common country. What is the complaint made by the honorable Senator? Why, he gravely urges the geographical extent of the new circuit, and that it unites the torrid with the frigid zone; that it brings the very extremes together. Well, sir, if such have been the facilities in travel that far distant regions are brought near, does it not become us to improve these advantages, and accomplish important public and national benefits? Why, the judge of this circuit can readily, with ease and pleasure, reach his most distant district in about one week. Sir, the waters of that noble river, the Mississippi, wash the shores of every State that will constitute this circuit, and hundreds of steamboats are constantly in motion through its whole length. The truth is, large as is the territory of these four States, the labors of the judge will be less onerous than the duties which devolve on the judge of the first circuit, composing the States of Maine, Massachusetts, New Hampshire, and Rhode Island.

It is indeed a strange charge to hear of this plan, that it will, in the language of the Senator, "bamboozle" the West, when, sir, this very plan is in terms recommended by the President of the United States in his late message to Congress.

The Executive, ever since he came into office, has presented to the Legislature the claims of the new States to a participation of the judicial privileges enjoyed by their sister States. It was a part of his duty, and he has not neglected it; and the Senate will hear, in the extract which I shall read from his late message, how the President proposes a relief for the West. These are his words: "Your attention is again respectfully invited to the defect which exists in the judicial system of the United States. Nothing can be more desirable than the uniform operation of the federal Judiciary throughout the several States, all of which, standing on the same footing as members of the Union, have equal rights to the advantages and benefits resulting from its laws. This object is not attained by the judicial acts now in force, because they leave one-fourth of the States without circuit courts. It is undoubtedly the duty of Congress to place all the States on the same footing in this respect, either by the

creation of an additional number of associate judges, or by an enlargement of the circuits assigned to those already appointed, so as to include the new States." Thus you perceive, sir, that the bill is in perfect harmony with the views of the President. It is a direct response to his intimation. It does enlarge the circuit system for the very purpose of including the new States. It proposes to absorb the fourth circuit in the third and fifth—a measure without the least difficulty—and thereby grant the benefit of another judge to the new States.

The vacancy that has happened in the circuit, consisting of Delaware and Maryland, does not require of itself the services of a judge. Both these States may be assigned either to the third circuit, or divided to the third and fifth. If the bill then "bamboozles" the West, I have high authority to sustain me—authority which the honorable Senator never fails to eulogize as the purest and most patriotic.

I have some reason to complain of the honorable Senator, when he said that he had "not looked into the bill" to see what were the times at which the judge of the new circuit "was to be shot off from the one end of his territory to the other." Surely, sir, he should have looked and digested and fully understood it all, before he made it the matter of discussion, in his place, as a Senator. The bill proposes but one circuit annually, and I am assured by gentlemen from the West, that this will be quite sufficient for the satisfactory administration of public justice in those States.

But, Mr. President, on the subject of this new circuit, it was distinctly stated, on the introduction of the proposition into the Senate, that this branch of it would be left entirely with the Senators from the West. Should they prefer to leave the arrangement of their circuits to another session, no one could desire to press it. But that it was important, and of high obligation in the Senate, to avail itself of a vacancy on the Atlantic section, and, by an enlargement of the circuits, be prepared, at a proper occasion, and by no increase, or no dangerous increase, of judges, to spread the benefits of our system to every member of the Union.

Mr. PORTER said that he felt somewhat embarrassed. He saw friends on both sides of the House desirous to afford assistance to the new States, but who differed widely as to the means by which that assistance was to be extended. He was somewhat afraid that, in throwing himself between them as a mediator, he might offend one or other, perhaps both. Still he thought he could reconcile the conflict of opinion, and, at all risks, he was determined to try it. The Senator from New Jersey [Mr. FRELINGHUYSEN,] proposes (said Mr. P.) to merge the fourth judicial circuit in the third, and to create a new one in the West, composed of the States of Louisiana, Mississippi, Missouri, and Illinois. A court to be held once in twelve months in each State. The proposition of the Senator from Missouri is to create a new circuit in the Southwest, formed of the States of Alabama, Mississippi, and Louisiana, and offers to lay over the claims of the upper States until the year 1840. But he is opposed to melting up the two circuits on the Atlantic into one.

Sir, I feel the liberality of the proposition, and if I do not at once and unqualifiedly adopt it, it is because I greatly fear that, in the further progress of this matter, we shall find opposition from other quarters, which will defeat the project. But before I state the grounds of my apprehension, I cannot help observing that the Senators from those States into which the circuit system is extended, are in my opinion acting unwisely. They err greatly in imagining that they can prevent, sooner or later, the equalization of the States on this subject. The distinction which now exists produces inequality and injustice, and people in that part of the Union complain loudly of it. Their strength is rapidly increasing, and the time is not distant when they will be able, as the Senator from Missouri suggests, to compel, by their numerical weight in the national Legislature, an arrangement of the courts which will meet their wants and their wishes. It is better for them to yield with a good grace while it can be done, than to ultimately surrender to angry and unpleasant feelings, what can be given now to sentiments entirely different.

The reasons for their strong desires on this subject are too obvious to require any explanation. In regard to Louisiana, additional reasons exist. The civil law forms the basis of her jurisprudence; and the contracts which take place within her limits, or are to be performed there, when they become the subject of litigation, are carried to a court where there is not a single individual acquainted with the jurisprudence which must decide the controversy. Sir, said Mr. P., it is unnecessary for me to say how profound my respect is, and how high my admiration of the intellectual powers and great legal knowledge of the members of that tribunal. But no men could well administer a system of laws which they learned only from books at the time they were called on to apply the knowledge freshly acquired. The application of no branch of human knowledge was safe, except in the hands of those who profess it exclusively, and make it the study of their lives. Hence the strong wishes of the people of Louisiana on the matter, and their wishes were not stronger than the necessity. On the matter, Mr. P. said, he had no doubt he spoke the sentiments of the learned persons who presided in the tribunal in question.

This claim for an additional judge was so strong, that it could not much longer be deferred. He put it, therefore, to the Senators from the Atlantic States, if they had not better at once consent to what was necessary—to what, in a very short time, could not be resisted.

But while he threw out these suggestions to them, he must be allowed to make some also to the Senator from Missouri; and, calling on him to reflect how often the just demand of the new States had been rejected, he asked him, if he could not carry his amendment, would it not be better for him to take even the bill of the Senator from New Jersey, than lose every thing. Whether, in other words, half a loaf was not better than no bread. Mr. P. said he felt it was; and, if the amendment of the Senator from Missouri did not prevail, he should then vote for the bill of the Senator from New Jersey.

But, Mr. P. said, nothing was easier than to reconcile all parties, if they would only lay aside previous opinions, and perhaps some prejudice, and look at the matter as practical men. Neither could obtain all they wished. Let, then, each take away what they could get. Let the Senator from Missouri and his friends consent to the proposition to merge the fourth in the third circuit, and take the judge which otherwise might be appointed in it, for the States of Illinois, Indiana, and Missouri, which will be the seventh circuit; and let the Senator from New Jersey consent to the formation of an eighth circuit, composed of Louisiana, Mississippi, and Alabama. By these means, the whole of the United States will be supplied with circuit courts, by the addition of a single judge to the supreme tribunal.

I throw out, said Mr. P., this plan for the consideration of the Senate, and I trust it will be adopted. It will get clear of nearly all the objections which have heretofore been made to this measure.

Mr. EWING rose and asked what, practically considered, was the question under discussion? The subject now before the Senate had been presented to it a long time since. The vote of the Senate had been taken upon it, and it was referred to a committee. Was

it not the duty of gentlemen to apply for information to the committee, and not expect the committee to wait on them? The Senator's [Mr. BENTON's] complaint against the committee was without foundation. It was urged as an objection that courts were held upon this circuit (Ohio) but once a year. Let gentlemen look practically at this matter, and see whether that was a proper subject for complaint. What was the object of these courts? That citizen might sue citizen of the same State? Not at all. They were for the sole purpose of affording a fair and just tribunal to foreigners and citizens of other States, to bring suits in the State where the court may be established. Why, then, hold the court more than once a year? It might be said, in order that citizens might bring suits in this court, rather than in the State courts. Was it, then, so great a favor to the citizens of the State, that foreigners should be induced to bring suits in the circuit court, rather than in the courts of the State? Were not the ends of justice as well answered by having this court once a year, as by having it twice? In Mississippi, Missouri, Illinois, and Indiana, this court need not be held more than once a year. If any constitutional question was involved, suit would be brought in this court. In Ohio, where the court was held twice a year, the business was done in summer, not in winter. We were told this was a mockery to the people of the West. Why was it so? Because they could not be sued in this court. With regard to all constitutional questions, a court once a year was sufficient for all the States west, except Louisiana. He was not ambitious to have the courts of the United States held oftener than this, nor desirous of enabling persons to bring suits in the circuit courts. It was said that the circuit in question was a monstrous one, extending from zone to zone, and imposing difficulties upon the judges. Now, what had the judges to do? The court at New Orleans lasted for two or three weeks; in Mississippi, about one week; at St. Louis, a little longer; and in Illinois, about half as long. In Ohio, there were about a million of inhabitants, and the business done there was in proportion. The time of the judges on this circuit would be less than that required for the eastern district of New York. As to the facilities of transportation, was the gentleman [Mr. BENTON] serious in what he had said upon this subject? The route was without labor or loss of time. What was the distance from Vandalia to Mississippi? About a hundred miles, whether by means, as insinuated by the Senator from Missouri, [Mr. BENTON,] of flying dragoons, the wings of peacocks, or those of wild geese.

Mr. KING, of Alabama, said he recollected well that the West and Southwest had been deprived of the advantages of the judicial system merely in consequence of the inability of gentlemen to make up their minds as to the arrangement of the circuits. That time, however, had now gone by; and if they entertained the opinion that the present system, which had been already tried in the old States, was a good one, could honorable Senators with any propriety withhold its advantages from the Western States? He thought not. The general impression seemed to be that the system was beneficial. He should prefer that the arrangement of the circuits should be made according to the geographical position of the several States, be permanent in its character, and extend to all of them alike. The additional expense attendant upon giving those benefits to the South and West ought not to deter Senators from bestowing them. He could not but regret that the subject had not been brought forward at an earlier period of the session. He thought it would be better to recommit the bill, with instructions to report the bill giving an additional judge to Louisiana, Alabama, and Mississippi.

Mr. BIBB observed that there was one circumstance the advocates of the bill seemed not to have regarded; and that was, that these six States, to which it was proposed to extend the circuit system, had for more than fourteen years been denied the benefit of it. In all criminal cases affecting the life or liberty of a citizen the opinion of the district judge was final and conclusive, without any appeal whatever. And, in regard to civil cases, the decision of the judge was equally determinate. Now, this was a very great grievance. Congress had gone on for years, apparently forgetting that justice was the most sacred privilege of the citizen, and ought to be equally dispensed to all. It was strange—it was an anomaly—that in a new country, where so many difficulties arose, the rights of the citizen should depend on a single voice. In Louisiana, especially, where many crimes occurring on the high seas had to be investigated and decided upon, by whom was that decision to be made? Why, by a single district judge of inferior qualifications. This, then, could not be right; it was manifestly wrong. Some gentlemen he knew to be in favor of separating the circuit and Supreme Courts altogether. Now, this was also his opinion; and, he was free to declare, it was his construction of the constitution. The circuit system, however, had gone into operation, and therefore he gave up the notion of carrying that object into effect at the present time. He thought that the duties to be imposed upon the western judges would be rather too laborious; and he had made up his mind that a reorganization of the circuit system ought now to take place, as they should avail themselves of the vacancy which had occurred on the Supreme bench. He imagined that he had a better arrangement in view, and one that was likely to last for many years to come; it was, to create an additional judge, making the Supreme Court to consist of eight judges. This arrangement, he thought, would be found very convenient hereafter, when Florida, Arkansas, or Michigan, should be admitted into the Union, as the western circuits could be then easily enlarged, without making any one circuit too onerous. He was willing to vote for one or the other proposition, but still he should prefer the latter, because it was evident that an additional judge would be required before long.

Mr. BLACK said that the circuit system should be either extended to all the States alike, or abolished altogether. He conceived there was a great objection in extending the system, if it was to be done by increasing the number of judges. The plan of the Senator from New Jersey was not impracticable; but his (Mr. B's) own preference in regard to the matter was this—that the fourth circuit should be entirely abolished, or added to one or two other circuits; and that two circuits should then be created in the West. He entertained no doubt that ultimately eight judges would be appointed. There were now two Territories, which, when admitted into the Union, as they soon must be, Congress could not resist an application to increase the number of judges to eight. The plan which he had proposed, even if it were considered a bad one, he should prefer to having none at all, for it would at least extend to the people of the West some relief. He thought this now a fair opportunity for the people of the West and Southwest to obtain an equal participation in the benefits which the old States have derived from the circuit system. He would say, and in perfect good feeling, that he had voted for the appointment of the last judge of the circuit court he should ever vote for, until the circuit system was carried into full effect throughout the United States. He preferred the amendment of the gentleman from Missouri, and should vote for it. If, however, it did not prevail, then he would go for the bill as it stood.

Mr. HENDRICKS remarked that he should vote for the bill as it stood before the amendment which had

been offered. The vacancy which had occurred on the Supreme bench struck him as a favorable opportunity for giving a judge to the new States. The Western States had been deprived of the benefits of the circuit court system ever since they had entered the Union, and it was right that all the States should partake of the judicial system. It had been said that the Senate ought to adopt the amendment of the Senator from Missouri, because the Territories of Michigan and Arkansas might soon be admitted into the Union. He (Mr. H.) would merely say, "sufficient for the day is the evil thereof." They could be provided for at the proper time.

Mr. BUCHANAN said he should not have risen to make any remarks upon the subject, but he believed the propitious moment had at length arrived when justice might be done to the West. The people of the Western States had a right to complain, and to complain loudly, that the circuit court system had never been extended to them. It must be admitted, however, that their representatives, in this and the other House, had, in a great degree, been the cause of this injustice. Whilst he had been a member of the House of Representatives, he had exerted all his feeble powers, first under the lead of the gentleman from Massachusetts, [Mr. WEBSTER,] and afterwards as chairman of the Judiciary Committee, to do justice in this particular to the Western States. Every effort had hitherto been in vain, chiefly for want of a cordial and united effort of the western gentlemen themselves.

Although no practical benefit has yet resulted from the repeated discussions of this subject, yet a great and important principle has been settled. At first many gentlemen, whose opinions were entitled to great consideration, thought it best to detach the judges of the Supreme Court from circuit duties, and convert them into a mere court of appeals. He believed that very few, if any, now entertained such an opinion. The truth was, that no man can be a useful judge of the Supreme Court who has not an opportunity of acquiring a practical knowledge on the circuit of the conflicting and ever-varying laws of the different States. It is thus, and thus only, that he can bring with him to Washington, and contribute his proportion of that sort of local State law which can never be acquired in any other manner. The judges of a mere appellate tribunal never could and never would acquire, by study alone, a sufficient knowledge of twenty-four distinct and clashing systems of the State laws and customs.

It has been established, that our present judicial system should not be abandoned. This being the case, no man can doubt but that it must be extended to the six Western States. Nature herself has clearly divided these States into two circuits. The three southwestern States, Alabama, Mississippi, and Louisiana, ought to form one circuit; and the three northwestern States, Indiana, Illinois, and Missouri, the other. Before he sat down, he should make a motion to recommit the bill to the Judiciary Committee, with instructions to create those two circuits.

Mr. B. believed that the circuit, as proposed by the bill under consideration, was far too extensive. It was possible, indeed, that the judge might be able to travel over it, though the places of holding the courts were very remote from each other. But was there nothing more necessary? The judge must acquire an accurate knowledge of the laws of each of the States within his circuit. This was a work of time and labor. Every State in the Union had its own system of laws, and these were constantly changing, according to the will of twenty-four distinct Legislatures. If a judge were to be kept constantly on the road, he could never acquire the knowledge necessary to make him useful to the country. The proposed circuit was greatly too large. He would again repeat, that nature had already formed the two circuits in the West, which he should propose to establish. Alabama, Mississippi, and Louisiana, were not more closely connected by their position than they were in feeling and in interest. The same might be said of Indiana, Illinois, and Missouri. He trusted the time had now arrived when these circuits might be formed. In order to try the sense of the Senate upon the subject, he now moved

"That the bill be committed to the Committee on the Judiciary, with instructions to amend the bill, to create two new circuits, the one to consist of the States of Louisiana, Alabama and Mississippi, and the other of the States of Indiana, Illinois, and Missouri."

Mr. CLAY said he wished to make but one or two observations on the general subject, rather for the purpose of vindicating the general Government than for any other particular object. A habit had been for some time indulged in of complaining of the great injustice done by the federal Government in not measuring out to all the States alike those benefits which flowed from one common source. The complaint was that the circuit court jurisdiction was not extended to the new States. And what, he would ask, was the real state of the fact? With regard to Kentucky, she was admitted a member of the Union in 1792, and had not the benefit of a circuit court till 1807. Tennessee was admitted into the Union about the same time, and was placed in the same situation. They did not complain of the great injustice done them. The real state of the fact was that the circuit court system was prevalent in all the old States. The whole extent of the complaint by the new States was this, that the same justice which was administered there by one judge only was administered in the old States by two.

Why, in most of the States a single judge conducted the criminal as well as the civil business of the court. In Kentucky, where the circuit system prevailed, there was but one judge, and he tried both civil and criminal cases. In Virginia, North Carolina, and Ohio, they had what was formerly called a "buck-eye" judge, who sat on the bench with two judges, who were unlearned—not lawyers—and three constituted a court. Kentucky, too, had formerly a "buck-eye" judge, and he believed some other States had also.

It was right, he must admit, that all the States should be put on the same footing. He thought there should be two judges appointed. His principal object, however, in rising, was to vindicate the general Government from this eternal complaint, the tendency of which was felt and to be deplored; for all would rather hear of the good effects of the measures of the Government. Several years ago, and during the administration of Mr. Adams, a bill was introduced into the other House to extend the circuit system to the new as well as the old States, and he believed it would have passed; but what was its fate? Gentlemen need only to look at the journal. He would merely state an historical fact—that it was defeated in the Senate, and that, too, upon party grounds. The bill, as was said by the Senator from Pennsylvania, was introduced again and again, from year to year, after that, and was again defeated by western gentlemen for some cause or other.

Now he (Mr. C.) hoped, with this state of the case, the Senate and the country would be satisfied there had been no act of injustice intended by the general Government towards the new States; that there was no intention to do manifest injustice to them or any other of the members of this Union.

He was in favor of the bill; but he did not care, like the gentleman from Mississippi, [Mr. BLACK,] which of the two plans proposed was adopted. But he was satis-

fied, from a conversation which he had had with some gentlemen, that the middle circuit might be dispensed with entirely, and a considerable expense would be thus saved to the country. The facility of the intercourse between the four States which it was proposed to unite in one circuit, the similarity of their jurisprudence, the personal convenience of the judge—in short, all those considerations which should control the exercise of our judgment—conspired to recommend the plan proposed. Besides the utility of the measure, it was the imperative duty of Congress to avail itself of the existing vacancy, in order that justice might be dispensed with an equal hand; to secure which it was indeed necessary that another judge should be appointed, as the new States were at present in want of an additional judge. He had no great objection—none whatever, if he must express the truth—to increasing the number of United States Supreme Court judges to eight; in fact, he had no objection, if it was necessary to supply the wants of the new States and those Territories which would probably become States before long, to give as many as twelve. And his reasons for that were, that the Supreme Court of the United States was no ordinary court. It was not like the English courts; it was not like any other court upon earth; it was a high political tribunal, as well as a court of justice. It was invested with power to fix, to determine, the constitution of the United States, in all those instances in which it was called upon to interpret that instrument. In cases of litigation argued before that court, as, for instance, between A and B, in which a constitutional question was involved, it had to declare what was the meaning of the constitution. That tribunal possessed a vast power—a power too great for any tribunal—but it was found impossible to dispense with it. It was a power which he would not consent to remain in any court, however respectable it might be, if he could conceive of any other practicable mode of deciding such important questions as frequently came before it. There was no appeal from the decision of the Supreme Court; it was a court to which the last appeal only could be made; it was, in fact, a court invested with powers and authority transcending those which were possessed by the Court of Cassation, the House of Lords themselves, or by any other tribunal known upon the habitable globe. If the Supreme Court were limited solely to questions of property, without drawing within the scope of its power high constitutional questions, then a smaller number of judges would be sufficient; but, as that was not the case, a greater number were necessary; and they should be drawn, too, from all parts of the country, so that they might imbody among them the feelings and sympathies of the people at large. He repeated, he had no objection to increasing the number of judges; at the same time, he thought Congress ought to avail itself of the services of the judge who had offered to perform the additional duties he had mentioned.

Mr. FRELINGHUYSEN moved to amend the instructions to the committee by adding "and so to arrange the third and fourth circuits as to form on the whole eight circuits."

The yeas and nays were ordered on this amendment.

Mr. KING, of Alabama, said that the Senator from Kentucky had remarked that the Western States were habitually complaining of the action of the general Government. Alabama had, perhaps, complained less than some other States; and he (Mr. K.) would ask, did the honorable Senator mean to say that, when the new States had been so long represented in the Senate, and that, too, without having the benefits of the circuit system extended to them, they had no reason to complain? that they had no right to seek redress for their grievances? Surely, he could not. Those States were fully justified in complaining, and they would continue to complain until they were put upon the same footing as other States. He thought that an additional judge would be sufficient. He trusted that the bill would be recommitted, without instructions, leaving it to the committee to arrange the circuits; because, if that were not done, a discussion might ensue, which, at that period of the session, was to be deprecated, time being then so very precious.

Mr. CLAY remarked that the only question which the Senate had to decide was, whether one judge, exercising the circuit court jurisdiction, could be usefully intrusted to try causes under $2,000, or whether two were necessary? But he must say there was no crying injustice either felt or intended, as imputed in the course of the argument on this subject.

Mr. LEIGH should concur in any plan that would extend the benefits of the circuit system to the new States. He entertained most fully the opinion that those States would derive great advantages from having a Supreme Court judge, as cases from the circuit court could be determined on the spot, instead of being sent to the Supreme Court at Washington.

The question was then taken on Mr. FRELINGHUYSEN's amendment, and decided as follows:

YEAS—Messrs. Bell, Benton, Bibb, Black, Brown, Calhoun, Clay, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, King of Alabama, King of Georgia, Knight, Linn, McKean, Mangum, Morris, Naudain, Porter, Prentiss, Preston, Robbins, Robinson, Shepley, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Waggaman, Webster, White—36.

NAYS—Messrs. Buchanan, Clayton, Cuthbert, Hill, Kane, Kent, Leigh, Ruggles, Shepley, Tallmadge—10.

The bill was then recommitted with instructions.

FORTIFICATIONS.

On motion of Mr. WEBSTER, the Senate proceeded to the consideration of the bill making appropriations for fortifications.

The amendments reported by the committee were agreed to.

On motion of Mr. BENTON, instructed by the Committee on Military Affairs, the bill was further amended by inserting—

An appropriation of $75,000 for Fort Mifflin;

An increase of the appropriation for Fort Delaware, from $75,000 to $150,000.

On the last amendment some discussion took place as to the necessity of enlarging the appropriation, in which Mr. BUCHANAN, Mr. BENTON, Mr. PRESTON, Mr. CLAYTON, Mr. CALHOUN, Mr. NAUDAIN, and Mr. CUTHBERT, participated.

Mr. BENTON moved also, in conformity with instructions from the Committee on Military Affairs, an additional appropriation of $500,000, to be expended at large in repairs, completions, and constructions of fortifications.

At the suggestion of Mr. WEBSTER, the consideration of this amendment was waived by Mr. BENTON for the present, and

The amendment moved by Mr. BENTON, that $100,000, in addition to former appropriations, be inserted for the armament of fortifications, was taken up and agreed to.

The other amendment, appropriating $500,000, was then renewed, when

Mr. WEBSTER expressed a wish that the amendment might not be pressed.

Mr. BENTON said he should not press it.

The proposition was then negatived, and the amendments were ordered to be engrossed.

On motion of Mr. HENDRICKS, the Senate then

proceeded to the consideration of executive business: Ayes 14, noes 12.

And, when the doors were opened,

Mr. CLAY submitted the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be directed to apply the appropriation of $50,000, made at the last session of Congress for the improvement of the navigation of Cumberland river, to that object, above as well as below the city of Nashville.

The resolution was read a first time.

On motion of Mr. LINN, ordered that after Thursday the Senate have a recess every day, for the remainder of the session, from 3 to 5 o'clock, P. M.

The Senate then adjourned.

TUESDAY, FEBRUARY 24.

PRIVATE CLAIMS.

Mr. WEBSTER rose and stated that it had been his intention, at an earlier period of the session, to take the first favorable occasion to make a preliminary movement, for the purpose of drawing the attention of Congress to what was, in his opinion, a very important subject. Gentlemen who had been here long must have seen that such had been the enormous accumulation of private bills, that they could but anticipate that, if we remained here much longer, we ourselves, and, if not, those who would be our successors, must be overwhelmed with the mass of business of this character. He had thought it to be his duty to take some step in reference to this matter, as soon as the condition of the business would permit, in order to reduce, if possible, the number of these private applications to the Legislature. At present he would do no more than to bring, by a resolution, the subject before Congress, in the hope that, at the next session, some person would bring the subject up for action. He concluded with offering the following joint resolution, which was read, and ordered to be printed:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That a joint committee of the two Houses, to consist of members of each House, be appointed for the following purposes, viz:

1. To examine the general nature of the private acts which have passed Congress within the last five years; to ascertain their numbers, and to classify them, according to their subjects.

2. To consider the practicability of diminishing the number of private applications to Congress, either by vesting the authority of deciding on such claims, or some of them, in some public board, or in the several Departments; or by other proper provision, and to report thereon.

PUBLIC PRINTER.

Mr. PRESTON stated that he had given notice that he should to-day call up his resolution concerning the election of a printer for the Senate. But, as he perceived that the seats were thin, he would not call up that subject to-day, nor was he prepared to say on what day he should move his resolution, although it would be necessary to do so at an early period.

BRANCHES OF THE MINT.

The bill to establish branches of the mint of the United States was read a third time.

[This bill proposes to provide by law that branches of the mint of the United States shall be established as follows: one branch at the city of New Orleans, for the coinage of gold and silver; one branch at the town of Charlotte, in Mecklenberg county, in the State of North Carolina, for the coinage of gold only; and one branch at or near Dahlonega, in Lumpkin county, in the State of Georgia, also for the coinage of gold only; and to appropriate sufficient sums of money for the purpose of purchasing sites, erecting suitable buildings, and completing the necessary combinations of machinery for the several branches aforesaid.

The second section proposes to provide that, so soon as the necessary buildings are erected for the purpose of well conducting the business of each of the said branches, the following officers shall be appointed upon the nomination of the President, and with the advice and consent of the Senate: one superintendent, one treasurer, one assayer, one chief coiner, one melter, and one refiner; and that the superintendent of each mint shall engage and employ as many clerks and as many subordinate workmen and servants as shall be provided for by law, &c.

The third section proposes to provide that the officers and clerks to be appointed under this act, before entering upon the duties thereof, shall take oath and give bonds for the faithful and diligent performance of the duties of their offices.

Section fourth proposes to provide that the general direction of the business of the said branches of the mint of the United States shall be under the control and regulation of the director of the mint at Philadelphia, subject to the approbation of the Secretary of the Treasury, &c.

Section fifth proposes to provide that all the laws and parts of laws made for the regulation of the mint of the United States, &c., shall be in full force in relation to each of the branches of the mint proposed to be established by this bill, so far as the same shall be applicable thereto.]

On the question of the passage of the bill,

Mr. HILL said that, having voted steadily against the bill for creating three additional mints, which must be conducted exclusively at the expense of the people of the United States, and against some of those Senators with whom he had the happiness generally to agree, he felt a necessity for explaining the grounds on which he gave his votes. He had been struck very forcibly, when the blanks were filled up, with the fact that the salaries for the several officers of the mint at New Orleans were placed from twenty-five to thirty-three per cent. higher than would be expected at any other point of the Union. In addition to this, it was to be observed that, during the sickly season of from three to six months in the year, the operations of the mint at that place must be suspended. The additional expense of coining at New Orleans must be far greater than the expense of transportation would be from New Orleans back and forward to the mint at Philadelphia. He considered that Louisville, in Kentucky, would be a far preferable point for a mint: it would be more central for the Western country, and the difference of the expense of coinage at the two places, in favor of Louisville, would much more than pay all the expenses of transportation back and forward of the bullion or material for coinage.

Mr. H. said if he could believe for a moment that the establishment of these three new mints would be the means of introducing a specie circulation, would change the circulation of paper for that of the precious metals, he would consent to incur some expense to the treasury to effect such an object. He believed that the introduction of the new mints would not make hard money more plenty. A large portion of the gold which would be coined at New Orleans would not be from bullion or native gold, but from gold already coined. The recent law had made all foreign gold coin a tender, so that the coinage of gold in any vicinity could not and would not make gold more plenty. That circulation must depend

on other circumstances—on the prohibition, by the State and local Legislatures, of paper bills of certain denominations.

It had been said that the gold-finding business required protection; the bill of the last session of Congress had raised the value of gold six per cent. Mr. H. referred to the last report of the director of the mint at Philadelphia, by which it appeared that the gold coinage at the mint during the last year, (half eagles $3,660,845, and quarter eagles $293,425,) has "exceeded the aggregate coinage of gold during the nine preceding years;" and that the amount of silver coinage, in the same time, exceeds by about one quarter of a million of dollars the coinage of any previous year. He also showed from that report that, of the gold received during the last year, $898,000 were received from the gold regions of the United States; $225,000 from Mexico, South America, and the West Indies; $2,180,000 from Europe; $12,000 from Africa; and $9,000 from sources not ascertained; and that, of the whole amount received from Europe, about four-fifths were in foreign coins. This statement from the mint at Philadelphia showed most conclusively that this institution was ample for all the wants of the country. The gold coinage of the last single half year had exceeded the whole gold coinage of the last nine years, while the silver coinage had exceeded that of any previous year. The importation of gold, resulting from its increased value, had been greater during the last year than could be calculated on hereafter, and it was found that the mint at Philadelphia, even with its present force, was ample for the coinage of all that could be required for the supply of the whole United States. If, in a time like the present, the national mint is sufficient for all the wants of the nation, of what service can three additional mints be to the country, when the importation of gold and silver shall be discontinued? In time of war the operations of the mint will be stopped, but the salaries of the officers and men will go on; and this bill will establish and create from twenty to thirty officers, with larger salaries than the highest and most responsible officers in many States of the Union.

I object to the bill (said Mr. H.) because, after incurring an expense in the outlay of half a million of dollars, it will fix a permanent annual expenditure of one hundred thousand dollars; and all this when the gold, silver, and copper, are coined, not for the benefit of the whole people, but for the benefit of individuals. Even if there should be no coinage, the expenses of the several mint establishments must go on. Mr. H. said the statement made in the Senate on Saturday, relative to the thirteen mints in France, had induced him to make inquiry in relation to the fact. He said there were thirteen mints in France; but only three of them were authorized to coin gold. The mints of France had this important difference from the mint of the United States—they were in the nature of private institutions. The mint of the United States was a public institution, coining gratuitously for individuals all of the precious metals that may be committed to its charge. He quoted from Goldsmith's Statistics of France, by which it was shown that the charges for coinage at the royal mints in that country were twenty-nine centimes for every one hundred francs in gold; that is, twenty centimes for loss, and nine centimes for coining; and, on silver, one franc and fifty centimes for every one hundred francs; that is, one franc for coining, and fifty centimes for loss. He showed from this book that, in the year 1827, the profits from the mints, after paying all expenses of recoining and salaries to the Government, amounted to one hundred and twenty thousand francs, or about twenty-three thousand dollars. If (said Mr. H.) the mints in this country were founded on the same principle as they are in France, he would have no objection to adding three to the present number, or any additional number. In England there is but a single mint, as there is in this country; and it is a Government institution, nearly similar to that of the United States. From Rees' Cyclopædia he found the account, that in former times there was a mint in nearly every county of England; that at this time there is only one single mint for the whole of England, Scotland, and Ireland. That mint is in London; and the single institution produces coin with so great facility, that the whole wants of the country are by it supplied. As one mint in that country is sufficient for the whole United Kingdom, so one mint will be ample for the coinage of all that the wants of this country may require.

The Senator from Missouri [Mr. BENTON] has declared the system of mints to be a part of the hard-money system. I will not yield to any gentleman that he is more the friend of a hard-money currency than I am myself. He supposes hard money cannot be diffused through the West and the South if these mints shall not be established. He should recollect that banks are the natural enemies of a hard-money circulation; especially will bank notes of a small denomination drive out of circulation hard money. Hard money (gold sovereigns, and Spanish milled dollars, and French crowns,) was more plenty within the British province of Canada, until local banks were there established, than I have ever known it to be in the United States. Specie was constantly brought from that province in quantities. Yet the mints at which this hard money was produced were thousands of miles distant. So at New Orleans, until banks were there established, specie (gold doubloons and silver dollars) was always to be had in abundance. Drive small bank notes out of circulation, and no additional mint can be wanted to give the people all the gold and silver they may desire. We have had, very recently, (said Mr. H.,) a severe lecture on executive patronage in the report of a committee on that subject. Is it not matter of surprise, that gentlemen who should take a conspicuous part in that committee should, in a few days thereafter, advocate the passage of a law which will invest the Executive with an additional annual patronage of at least one hundred thousand dollars? The report of the committee he considered a valuable document for some purposes. Mr. H. said he had a large number of extra copies of this report sent to him. He thought the report did not represent facts in their true light, and on that account he did not feel disposed to distribute with alacrity such a document. But he considered it valuable for another purpose. He desired to have it always before members of Congress, when they had under consideration such projects for expending the people's money as that of the mints, which was now before us. Mr. H. read several paragraphs from Mr. Calhoun's report; among which were the following:

"Experience has shown that it is next to impossible to reduce the public expenditure with an overflowing treasury; and not much less difficult to reduce patronage without a reduction of expenditure; or, in other words, that the most simple and effectual mode of retrenching the superfluous expenditure of Government; to introduce a spirit of frugality and economy in the administration of public affairs; to correct the corruption and abuses of the Government; and, finally, to arrest the progress of power, is to leave the money in the pockets of those who made it, where all laws, human and divine, place it, and from which it cannot be removed by Government itself, except for its necessary and indispensable wants, without violation of its highest trust, and the most sacred principles of justice."

He agreed cordially with the opinion here expressed, and hoped that parts of this report would be referred to as a text book for present and future legislators.

In conclusion, he said he saw no possible advantage in the erection of three new mints; the expenditure was unnecessary; it could not be accompanied by corresponding benefits. He must, therefore, continue to oppose the bill, as he had heretofore done.

Mr. BLACK said that, in his opinion, one branch mint was all that was necessary to be established at present. He thought that the proposition to create branch mints at Charlotte, North Carolina, and Dahlohnega, Georgia, ought not to be entertained, as they were not wanted. The quantity of gold produced in and imported into the country did not authorize Congress in establishing so many mints. All that was required now was, as we had already a mint in Philadelphia, one branch to be established in New Orleans, or some other eligible point in the West or South. The amount of bullion which had been received at the mint from the North Carolina gold region amounted to $800,000, only, per annum. Now, that was much less than what he had supposed.

[Mr. HILL here remarked that the sum which the honorable Senator had just mentioned was all that was received at the mint. The probability was, that it was not the whole amount.]

Mr. BLACK continued. Well, it was not a sum at all equal to what ought to justify Senators in voting to establish a mint in North Carolina. His own idea was, that three branches ought to be established some years hence. At present, however, so many were not called for. There were now a great many objections to extending the system of branches. He could not, by any means, consent that branches should be established in North Carolina and Georgia, as was proposed, and should therefore move to recommit the bill, with instructions to strike out all the branches except one, and to locate that branch in North or South Carolina, or Georgia, or Louisiana, as may seem to be most expedient to the committee.

Mr. FRELINGHUYSEN said that he found, on looking at the communication which had been made by the director of the mint to the Secretary of the Treasury, that he was of opinion that a branch mint should be established in one of the gold regions of the South. But he (Mr. F.) wished gentlemen to recollect that this was merely a suggestion of the director. There was not one particle of information from the Treasury or any other Department, as to the wants of either of the States of North Carolina or Georgia, in relation to these branch mints. He must say that they were totally unnecessary and uncalled for. One gentleman might say to another, "If you will vote for a branch mint in North Carolina, I will vote to establish a mint in Georgia." And for what was it to be done? To coin $800,000! Gentlemen had said that the cost of transporting the precious metals from New Orleans to Philadelphia was five per cent. The director of the mint, on the contrary, estimated the cost, including ensurance, freight, &c., at from two to two and a half per cent.; yes, five per cent. was the estimate of honorable Senators, and which those poor distressed gold regions had got to pay, in order to send their gold to Philadelphia! Why, the United States had better pay North Carolina and Georgia the cost of transporting their gold, than go to the great and unnecessary expense of establishing mints within those States. Yet, some gentlemen, who stickled hard at paying a poor printer for books that were desirable to the Senate, found no difficulty, forsooth, in advocating such propositions as these. It would cost the Government no less a sum than $30,000 to coin $800,000 in gold! He would conclude by saying that he thought, when the people knew what the bill really was, they would think it one of the most objectionable that had ever come before Congress.

Mr. CLAY said that, owing to the effective opposition which this measure had received from the honorable Senator from New Hampshire, he could have but little to add, for really it was unnecessary to say any thing, as the honorable gentleman had spoken, and so well, too, to the purpose. It gives me pleasure (remarked Mr. C.) to find myself co-operating with the honorable Senator, and I assure the honorable Senator that, if he always takes the same substantial, solid ground he has occupied this morning, we shall be in co-operation much oftener than heretofore. Sir, politics make strange bed-fellows! (Laughter.) Who would ever have imagined that the honorable Senator from New Hampshire and myself could have come together? But I assure him, on this occasion, I embrace him most closely, for I think he has a great deal of reason and propriety on his side. They give rise to some strange reflections. Who would have thought, after the able and eloquent report made the other day, and accompanied also by a speech not less distinguished for its ability and excellence, by the gentleman from South Carolina, against the growth of executive patronage—who, I say, would have expected that, in the course of three or four short days, the Senator from New Hampshire would have been opposing the extension of patronage, and the Senator from South Carolina espousing that cause? It is a singular world in which we live!

Well, he (Mr. C.) would now proceed, seriously, to examine the matter, and look at the philosophical views which the honorable Senator [Mr. FRELINGHUYSEN] had presented to the Chair. He would therefore beg to call the attention of the Senate to what he was about to say. He understood the total amount of the importation of gold, during the last year, amounted to a little less than five millions of dollars. Now, that gold was imported into the various seaports on the Atlantic; but most of it arrived at the city of New Orleans. Now, let him suppose that the whole amount, the $5,000,000 of gold, had been received at New Orleans, and that the Government had incurred the expense of transporting it to Philadelphia in order to be recoined, what would be the expense? Its weight was 18,790 pounds. The expense of transportation from New Orleans to Philadelphia was at the rate of one and a half--but suppose it two cents per pound; then the amount of the freight, independent of the ensurance, was very inconsiderable, so that the sum of $375 80 would cover the whole expenditure. And, for the sake of avoiding this expense, what was proposed to be done? What was proposed, when, in these days, one-half of the nation was crying out about the extravagant, inordinate, and unparalleled expenditures of this Government, and the other, although somewhat sensible of the too great augmentation of the public expenditure, was compelled to resort to a vast number of shifts in order to veil and cover it?

What would be thought of the wisdom and prudence—the frugality of a people, who, because of a year unexampled for the importation of gold--a year which would not find its equal for some fifty years to come—who, from the occurrence of an extraordinary importation of gold, he would repeat, and in order to save the expense of transportation, which was but $375, should propose to establish a mint at New Orleans, which, as the honorable Senator opposite [Mr. WAGGAMAN] had said, could not be in operation more than five or seven months in a year, owing to the climate, which rendered it unsafe to remain in that city during several months? What, he would ask, would be thought of the wisdom of an economical Congress, who, to avoid the payment of the sum of $375, should incur the expense of $265,000 for that single mint for one year? Why, he would tell gentlemen what the people would think of these mint establishments—that they were not intended to coin money, but to produce an extract from a

very well known and excellent herb which grew at the South—for any thing, in fact, but to increase the specie currency of the country; and they were not called for by the general wants of the community. The Senate had been told that the whole amount of the gold transported from the gold regions of the South to the mint in Philadelphia last year was much less than one million of dollars. Now, that quantity of gold, he estimated, might have been transported to the mint, at the rate of eight cents per pound, for $301 60. Thus, it would be seen that, to avoid the expense of the transportation of a commodity which would not incur a charge of more than he had just stated, it was gravely proposed to establish two mints—the one in North Carolina and the other in Georgia—at an annual expense of some $30,000 or $40,000, independent of the original cost of establishing them. But, again: he was told that, in point of fact, the gold which was collected at the gold mines in Georgia was deposited principally in the banks at Augusta; that, on being deposited there, a certificate was transmitted to the mint, or the Bank of the United States, stating that it was worth one per cent. more than its nominal value, without incurring the expense of transportation. If that were the real state of the case—and if satisfied, as every member of the Senate must be by looking at the report of the director of the mint, that that establishment in Philadelphia was perfectly competent and able to coin all the gold that could be brought to it, whether from home or from abroad--let him ask, then, if there was any good reason that could be adduced for the establishment of the proposed mints? Especially so, as was properly remarked by the Senator from New Hampshire, when the foreign gold that was brought into the country formed just as good a currency and answered all the purposes of our own, stamped with the American eagle? Spanish doubloons, and other foreign coin, circulated just as freely as any other description, for we had made them a tender by law. He hoped that Senators, in order to give the subject a reconsideration, would agree to the proposition of the gentleman from Mississippi to recommit the bill, for the purpose of reducing the number of the mints proposed to be established.

Mr. WAGGAMAN remarked that, to recommit the bill at that advanced period of the session, would be to prevent its passage at the present Congress. The Senator from Kentucky had been very disingenuous in his argument; and, in order to show its weakness, it was necessary only that honorable Senators should look at what was stated in the report of the director of the mint. The honorable Senator had deserted the high ground on which he had stood, and was obliged to descend from it to indulge in ridicule. His argument was, indeed, a disingenuous one. He had gone into a calculation for the purpose of showing what, according to the weight of the precious metals transported from New Orleans to Philadelphia, would be the charge thereon. Now, the honorable gentleman must have known that the cost of transporting gold or silver was much higher than on ordinary merchandise—that a certain per centage was always demanded on account of the risk incurred by the carrier. Supposing the sum transported from New Orleans to Philadelphia to amount to five millions of dollars, at two and a half per cent. the charge on it would be $125,000 per annum; so that there was a vast difference between the calculation of the honorable Senator and that made by himself. It was to be recollected that the importation of Mexican dollars was very much on the increase. What, he would ask, were the facts in relation to the commercial business of New Orleans? Why, her exports were greater than any other city in the United States, not excepting New York: he meant the exports of articles of merchandise created by American labor. This year they amounted to thirty millions of dollars. Of cotton there had been between five and six hundred thousand bales: sugar, one hundred thousand hogsheads; and tobacco, though it fell short this year, must have amounted to between fifty and sixty thousand hogsheads. He should not, however, detain the Senate by going at length into any detail concerning these matters of exportation. But, looking to the past, and throwing our eyes to the future, it might be predicted what would be, at the end of the next ten years, the export trade of the city of New Orleans. It was well known, indeed, that, for the last ten years, the resources of the great West had increased nearly double, if not fully to that extent. Allowing, then, that the increase of its exports was as rapid as they had been already, during the next ten years, they would amount to nearly $100,000,000. Having that amount of produce, New Orleans must receive its worth in the manufactures of Europe, or in money—doubtless, a large quantity of it in specie.

The Senator from Kentucky had often spoken of the vast resources of that immense Western country, and of the great natural advantages possessed by New Orleans for carrying on an extensive commerce. He had made an attempt to throw ridicule upon this subject. Now, he (Mr. W.) protested against that course; and trusted that the Senate would entertain the proposition with that gravity which was due to it. He would repeat that the high ground which the honorable Senator had taken in opposition to this measure had been abandoned, and he had resorted to other means of defence or offence. He had been given to understand that Charlotte, one of the places at which it was proposed to establish a mint, was a very thriving and increasing village—contained 1,000 or 1,500 inhabitants, and the county in which it was situated (Mecklenberg) was one of the most populous in the State of North Carolina. And an honorable Senator [Mr. CALHOUN] had just informed him that it was the first county in which American independence was declared. Under all the circumstances of the case, he (Mr. W.) could not see what ground there was for that serious opposition to the bill which had been made to it. The present banking system of the United States called for a corrective on the part of the Legislature; and he thought that the gold and silver in the country would go far towards effecting it. They would come in aid of whatever laws might be deemed proper to be passed by Congress; and, without that aid, those laws would be entirely useless.

The advantages of a mint at New Orleans would be great to that part of the country, and also to Ohio. Notwithstanding what the gentleman [Mr. EWING] had said, that State had perhaps a greater interest in it than any other. Mr. W. would not trespass longer on the time of the Senate; had he been disposed to have done so, he could have laid before it such evidence as to the utility of these mints, as must have convinced every unbiased mind that they ought to be established.

Mr. CLAY said he was very sorry to perceive that the gentleman from Louisiana was in danger of losing his good humor.

[Mr. WAGGAMAN replied that he had never felt in a better humor in his life. He certainly was not disposed to approve of the honorable gentleman's sarcastic remarks.]

Mr. CLAY observed that the honorable Senator from Louisiana had attributed to him disingenuousness. Now, if the gentleman meant to say that he (Mr. C.) knew any thing about transporting specie from New Orleans to Philadelphia, all he had to say was, that he had never exported from that city a dollar in his life. The honorable Senator had not yet controverted what he (Mr. C.) had said as to the charge per pound for carrying the

precious metals. He had understood that it had been done for two per cent., and he believed as low as one. Taking the statement from the true source—taking the report of the director of the mint, the expense of transportation from New Orleans to Philadelphia was one and a quarter per cent., including ensurance. And, if the real facts of the case were known, he had no doubt the expense would be found to be borne by the banks. The Bank of the United States would continue to draw the largest amount of specie to Philadelphia and the Atlantic States. But the honorable gentleman contended that New Orleans was daily rising in importance; that its exports were constantly increasing; that the quantity of cotton which it disposed of yearly was much greater than heretofore, and that it was destined to be one of the greatest cities in the Union. The honorable Senator had added, too, that the return must principally be in specie. He (Mr. C.) should like to know how long that could continue. He thought the assumption entirely unfounded, that the return cargoes were going to be in specie. How was the business of New Orleans to be carried on, but by taking, in exchange for the products of the West carried to Liverpool, British goods? The merchants were paid in bills drawn on New York, or any other of those large cities that carry on trade with England, but generally they were paid in goods. It was remarkable how the gentleman put forward the pretensions of New Orleans, and how little he talked about those places in the South at which it was proposed to establish the two other mints. New Orleans was the great steam engine which drew after it the two little cars, and the honorable Senator hoped that it would be sufficiently powerful to draw the cars through the two Houses of Congress. One of the places where a mint was to be established was called Talanega or Dahlohnega, he did not know which it was, and believed he never should get hold of the right name. Where was it? for he knew not.

[Mr. WAGGAMAN said he believed in Muscat county, Georgia.

Mr. CALHOUN. No: Lumpkin county.]

Mr. CLAY continued. A place which had no existence a few years ago. It was in the bosom of almost inaccessible mountains. And, with regard to Charlotte, North Carolina, being the place at which the declaration of independence was first made, what had that fact to do with the establishment of a mint? Nothing. He felt himself compelled to make another inquiry of the honorable Senator, and that was, as to whether Dahlohnega was situated in that part of the disputed territory which the Cherokees claimed, and with respect to which an important negotiation might now be going on; or, at least, which Congress had not given any sanction for the occupation of, without the consent of the Indians. He believed it was.

Mr. CALHOUN replied that, seeing neither of the Senators from Georgia in their seats, he would state that it was a regularly organized part of Georgia; the county town possessing all the machinery of Government, and he believed had four representatives in the Legislature—two in each House.

Mr. CLAY said he understood that, in point of fact, the location of the Georgia mint was within the Cherokee country—that part of Georgia in which the Indian title had not been extinguished, unless by the legislation of Georgia. Now, if Congress were to establish a mint at Dahlohnega, under such circumstances, they would thereby ratify whatever had been done by Georgia; and that contrary to the treaties, which Congress, as far as it had expressed any opinion on the subject, had not intimated any purpose to violate or disregard. Could Senators, then, having a due regard for the fate of the country, as pledged solemnly in those treaties, undertake (until by the authority of the general Government the Indian title was extinguished) to do any act, the performance of which implied that the Senate paid no respect to it—that they did not regard the Indian title, which, so far as the general Government was concerned, remained unextinguished? He thought not. Honorable Senators knew, from the proceedings in this and the other body, that it was probable that negotiations might be going on between the general Government and the State authorities on the subject to which he had just adverted. Whether there were, or not, he was not authorized to say. But, supposing there were, would it, he asked, be right that Congress should do any thing, which would imply an act of sovereignty, without reference to the rights of the aborigines? Certainly not. If the majority of the Senate were disposed to have three mints—if they were determined to have them, despite of all the arguments which had been urged against them—he did hope that the motion of the honorable Senator from Mississippi, to recommit the bill, would prevail, if for no other purpose than to remove the location of the mint out of that part of Georgia in which it was proposed to establish it, to some other, within the jurisdiction of the State, acknowledged by the general Government. The gentleman from Louisiana had been somewhat unparliamentary, he thought, in his language, in charging him (Mr. C.) with a design to defeat the bill.

[Mr. WAGGAMAN explained. He had not attributed to the honorable Senator a design to defeat the bill. What he (Mr. W.) said was, that such would be the effect of a recommittal.]

Mr. CLAY resumed. That language is in order. The effect, however, which the gentleman deplores we cannot help. If the bill is recommitted, and there is a settled intention to have these mints, provided the change I have indicated is made, so as to destroy the imputation which I should regard as a breach of the faith of the nation, I should interpose no obstacle to its passage.

Mr. BROWN did not rise to enter into any argument upon this subject. It was stated that not a million of dollars was annually produced in the gold region of North Carolina. Those acquainted with facts—for the returns of the mint afford no data—state that $800,000 had been produced in that region a few years since, and a much larger proportion in the years 1832,-'33,-'34. It was also said that the expense of from three to five per cent. was not incurred in the transportation. Now, gentlemen from the region in question stated that that was the loss incurred in the transportation of the gold to Philadelphia. Many persons were in consequence of this deterred from vesting their capital in this business. It had been asked why should those States come here to ask for the protection of Congress? North Carolina asked no such protection. All she asked was a simple act of justice. North Carolina, like her sister States, had delegated to the United States the power to coin money, and now only requested that she might be allowed to enjoy some of the benefits dispensed by that power. She did not, then, come here as a mendicant, but to ask for an act of justice. The town of Charlotte had been spoken of as being obscure. This, whether so or not, could not affect the question. But if patriotic associations could entitle it to the consideration of this body, the town of Charlotte was eminently entitled to that consideration. It was there that the gallant Davidson fell in opposing Lord Cornwallis; and it was there that the declaration of independence was first made. Nor was that town without historical existence, as would be found by perusing Marshall's Life of Washington. Mr. B. contended that the quantity of gold produced in North Carolina could not be accurately estimated by the mint returns; for it was to be recollected that much was exported to Europe in the shape of bullion, and that, consequently, the statement made by

the director of the mint would fall short of the amount obtained from the mines. The honorable Senator fully supported the correctness of the remarks made by the Senator from Louisiana, as to the expense of transporting the precious metals to New Orleans; and he therefore hoped that the Senate would grant mints to the several States who now asked them at their hands.

Mr. CALHOUN said that, as gentlemen had thought proper to renew the discussion, he should make a few remarks, though he felt some reluctance in saying any thing more than what he had already said on this subject. He must say, however, that, in every thing connected with their legislation, that great fundamental principle ought not to be overlooked—that this was a Government, not of a single community, but of twenty-four sovereign States, confederated in a solemn compact, that each might enjoy the best possible advantage, and promote the others' welfare. Congress, then, in its legislation, ought not to sacrifice or disregard the interest of a State, under any general idea that all could not equally participate in the benefits of the same act of legislation. He felt constrained to say that this great fundamental principle of our Government, and which ought to be fully carried out in the legislation of Congress, had been almost entirely overlooked. The Senator from Kentucky, in the course of his argument, had stated the expense of transporting money from New Orleans to Philadelphia at $300 a year. The gentleman had said this in a very gay humor; but, to look seriously and soberly at the matter, that was a most erroneous estimate. Three hundred dollars! Why, if they estimated the expense of transportation, including the ensurance, &c., correctly, it could not be less than $125,000. But that was a very small proportion of the expense. Did not every one know that the natural tendency of commerce was to fix itself where there were the greatest advantages of importation? Every one knew the importance of the current of trade, and that a very trivial circumstance might turn that current. It was, then, but fair to the citizens of New Orleans, that they should have an opportunity of securing their commercial interests. Senators should recollect that bullion entered most deeply into the commerce of New Orleans, and that, by withholding what she now asked for, and giving it to another place, would be to deprive her of all the advantages she already possesses in regard to her trade in the precious metals, as well as those she would derive from having a mint. Let one be established at any other port, and a preference in commerce would immediately follow. Such an occurrence would be most sensibly felt by New Orleans. A fair and impartial view of this subject must suggest that all the ports in the country connected with the bullion trade ought to have mints established. He thought they were due to Charleston, Norfolk, and Boston. New York had felt the advantages of being near a mint. It was impossible that Philadelphia could take all the bullion that arrived in the country without producing unnecessary expense and trouble to those to whom it was sent at other ports. On that ground, therefore, it was, he advocated the establishment of a branch mint at New Orleans. Other ports, too, as he had remarked, ought to possess a mint.

He would now proceed to address a few remarks to the gentlemen from North Carolina and Georgia. He had lately met a gentleman from Tennessee (a candidate for a high office in that State) who had spent a good deal of time in Georgia, and was perfectly familiar with the operations of the gold mines, who said that it was his impression the average actual loss to the small operators was not less than eight per cent. He (Mr. C.) did not think it was so great—it was, however, fully as large as he had stated it the other day, and much larger than it would be if a mint were established in that State. Mr. C. again repeated his former argument, which he averred could not be too often repeated, and ought always to be borne in mind—that this Union was a community of States, united together for common purposes and mutual benefit; and that, therefore, Senators ought to be willing to extend those advantages which were now asked for by Mississippi, North Carolina, and Georgia. The Southern States, it was scarcely necessary to say, had, as yet, derived but little of the benefits arising from the legislation of Congress. Now, then, that an opportunity was afforded of doing them good, he trusted it would be embraced. He would not permit the Senator from Kentucky to say that he (Mr. C.) was an advocate for increasing the expenditures of this Government, without noticing the remark. It was obligatory on Congress to carry on the operations of this Government in as economical a manner as possible, consistent with its wants. Whatever, then, was necessary, and within the constitutional limits of it, he had no objection to grant: but he was against every thing that was useless and uncalled for. He protested against the honorable Senator's holding him up as the advocate of executive patronage. Because he (Mr. C.) was against the extravagant use of the public money in one case, he was to be taunted with having espoused it in another, when in fact the expenditure would be a necessary and judicious one. He thought the remark of the honorable Senator unworthy of him, and without foundation. The Senator might just as well have said that he (Mr. C.) was in favor of the proclamation.

Mr. C., in conclusion, expressed his regret at the course which had been taken by Georgia, in regard to the removal of the Indians. He had always been in favor of their removal beyond the Mississippi. This, however, was not a fit occasion to raise that question. The Senators from Georgia were much better prepared to discuss that subject than himself, and therefore he should leave it to them entirely.

Mr. BLACK had no disposition to prolong the discussion. The gentleman from Louisiana and himself did not differ in opinion as to the necessity and propriety of establishing a mint at New Orleans; but he [Mr. WAGGAMAN] had not given any opinion in regard to the other places; and it was in reference to them particularly that his (Mr. B's) motion was made He objected to making New Orleans a stepping-stone to the establishment of mints in North Carolina and Georgia. They ought to stand on their own separate merits.

Mr. CALHOUN said the claim of each of the two places in North Carolina and Georgia was as great as the other. They were situated in the centre of the gold region of their respective States, from four to five hundred miles apart; and it would be to do injustice to one of those States, if but a single mint were to be established in the South, whether in North Carolina or Georgia. The mints which it was now proposed to establish would do much to develop the resources of the country. Mr. C. hoped the Senator from Mississippi would not press his amendment.

Mr. WAGGAMAN rose for the purpose of correcting an error into which the gentleman from Mississppi had fallen. He had stated the amount of gold which was produced in North Carolina every year to be $800,000 only. Now, the products of the gold mines were equal to about two millions per annum. The gold had increased in quantity, and would continue to increase in that quarter. This was the opinion of scientific observers. The fact, at present, was, that a great deal of gold was carried off in the most rude manner. The operations which had been commenced in the gold regions were attended with a great deal of difficulty. They had now, however, been surmounted, and there was an immense capital invested in the mines of the South.

Mr. CLAY said he felt himself called upon to make two or three remarks. The honorable Senator from South Carolina had said, by way of repelling the charge of his being in favor of patronage, that he (Mr. C.) might as well have said that he [Mr. CALHOUN] was in favor of fortifications.

[Mr. CALHOUN. No, no; the proclamation.]

Mr. CLAY rejoined: Ha! the proclamation! Yes; he (Mr. C.) had, it was true, declared himself in favor of the proclamation, so far as it went to promote the union of the States, though he did not approve of all the principles which it avowed. But he was in favor of the fortifications and the navy; and, in that respect, he believed he did not differ very widely from the honorable member himself.

Mr. CALHOUN said the only question in the case before the Senate was, whether or not the appropriation proposed was a proper one. He thought it was, and that it came within the constitutional limits.

Mr. CLAY observed that he would repeat that he was in favor of fortifications and the navy as well as the honorable gentleman himself, though he was not exactly in favor of that widely extended system of fortifications which was attributed to the genius and skill of the honorable Senator, and which he (Mr. C.) thought carried it infinitely further than the wants of the country required. He fully concurred in the sentiments of the gentleman in regard to our floating fortifications—the navy—and thought all others ought to be auxiliary to it. He thought the great error which had been committed in our system of fortifications was, that it looked to a continuance to the state of the country when we had come out of a war, when we had suffered from the want of the means of defence, without looking to the progressive change that might take place in the state of affairs abroad, to remain at peace. England, so soon as that Power which had been predominant in Europe was put down, reduced her fortifications and armaments, as unnecessary to be kept up. He had hoped that our own, too, would be unnecessary; and therefore he had thought we had committed an error at that period. What were the fortifications upon which it had been deemed necessary to make an expenditure ever since the establishment of the Government, and upon which all seemed to think some expense was necessary? But the honorable Senator had said he was in favor of patronage, when it was necessary for the service of the country. Now, he (Mr. C.) wondered what patronage had ever been extended, that was not given on the ground of real or pretended necessity. Why, the extra allowances of that wretched Department—the Post Office—O. B. Brown's extras—had been given under the plea that they were necessary for the benefit of the country! It was a misfortune that in this, as well as in all other countries, that plea was recognised, without the scrutiny and examination which should be given to the case. All legislative bodies, therefore, ought to look into the circumstances under which an expenditure was called for, and act accordingly. And would any body tell him, in regard to the places in North Carolina and Georgia, where it was proposed to establish two mints, one in the bosom of inaccessible mountains, almost; and the other, whose principal recommendation was that it was the burial place of a gallant hero who fought in defence of liberty and independence—a fact which he (Mr. C.) would suppose rather called for a monument over his grave, to indicate the spot where he lies, than a mint—would any Senator, he would again ask, tell him (Mr. C.) that he felt and believed there was any sort of necessity for those mints in the gold region? How was the necessity made out by the Senator from South Carolina himself? He (Mr. C.) would present to the Senate, in figures, an estimate of the cost of transportation—figures which he defied any gentleman to contradict. The honorable gentleman from Louisiana had said that the expense was greater than had been stated by the director of the mint, because that officer had not taken into account the charge on sending back the gold or silver. Now, that could not exceed one and one-fourth per cent. And where, Mr. C. would ask, was the necessity of incurring the expense of recoining coined money, in order to make it circulate, when, by an existing law, it circulated as well and was worth as much before recoining as afterwards? But the Senator from North Carolina, in order to swell the product of the gold regions, had told the Senate that the gold that was sent to the mint was not all that was produced; that perhaps an equal amount was exported to Europe. Now, he desired to know whether, if there were five hundred mints, the course of commerce would not extract the gold from them? Whether, if a man found it to be his interest to send his gold dust abroad, would he not send it, notwithstanding there were those mints? Would he not, if there were as many mints as there were court-houses? Undoubtedly he would. The whole argument for the establishment of the mints in question rested on the charge that certain portions of the country were exposed to heavy expenses in consequence of having to send their gold to the mint at Philadelphia for the purpose of being coined. Now, let gentlemen look at the looseness of the argument, or the facts upon which they were called upon to enter upon a system of mints, without limitation. They were well worth the consideration of honorable Senators. The honorable Senator from South Carolina had said he accidentally fell in with a gentleman from North Carolina, a candidate, perhaps, for the office of Governor, and it was his impression that eight per cent. was paid by the producers of gold for the carriage of it to Philadelphia.

[Mr. CALHOUN. Not from North Carolina, but from Tennessee.]

Mr. CLAY said: Well, the gentleman was a candidate for the chief magistracy of that State, and he told the honorable Senator that it was his impression such was the expense. And these were the facts from which the honorable Senator made out the necessity of incurring this additional expense, and thereby extending the patronage of the Government. Why, he (Mr. C.) would ask, was that the sort of information upon which the Senate would wish to legislate? Let that body have a particular ascertainment of facts; let it have witnesses, if necessary, to ascertain the actual amount of transportation, and every other particular. It was impossible to ascertain them. He would become as rich as Crœsus, if he could make an annual contract at one per cent. for all the gold produced at the mines in North Carolina and Georgia, as well as for all received at New Orleans. The facilities for expeditious travelling had multiplied since the invention of railroads, Macadamized roads, and other channels of improvement. And would gentlemen tell him that eight or four per cent., or any thing but what was stated by the director of the mint, was correct? Gentlemen did not base their statements upon information which was at all supported by documentary evidence. In fact, they must excuse him, when he remarked that what had been said about the great expense of transportation was utterly incredible to him. He thought the location of one of these mints within the region of a country in dispute between the whites and the Cherokees a very serious objection.

It was said to be a part of the Cherokee territory, and that there were vast numbers of whites settled within it. Were there not Indians, at that very moment, contending for their rights, and appealing to the justice of Congress for protection against what they considered oppressive acts of legislation on the part of the State of

Georgia? Were they not humble petitioners here that Congress should protect them in their little residuum? Should honorable Senators, then, turn them from their doors—from the halls of Congress, from which no injustice had emanated? Were they, he would repeat, to turn them from the doors of the Capitol—not answer their cries—and to establish a mint? He hoped not; for it would be an act of great injustice, and a violation of numerous treaties. He would repeat what he had said on a former occasion. Gentlemen had talked about ardor on his side of the question. It was true that he did feel ardor, and trusted that he should ever feel it, when endeavoring to avert or prevent the useless expenditure of the public money, and from the injustice which would be wrought by the violation of the faith of treaties. Gentlemen might charge his party with ardor; but did they not, on their part, present equal ardor? He considered the proposition, in whatever light it might be viewed, as very unwise and improper; and, entertaining that opinion, he should make all the opposition in his power to the passage of the bill, fraught as it was with injustice, and characterized by a want of a careful expenditure of the public money.

Mr. CALHOUN said that he was not the author of the system of fortifications, as was said by the Senator from Kentucky. The gentleman, by referring back, would find that they were commenced in 1816, under General Bernard, who was called from France, by the preceding administration, to superintend the erection of fortifications. He [Mr. C.] was still in favor of fortifications. Now, in regard to the expense of sending gold from the South to Philadelphia, the Senator had set up his own impression against the knowledge of those who had lived there for years. Mr. C. said impression, because he presumed the honorable Senator had no evidence. It was the opinion of twenty or thirty men, not of a single individual only, that the average charge of transportation was from three to five per cent. The petition of the Cherokees was to retain the land now in their possession; and they made no proposition to the Government that it should remove the whites who had settled in their territory; nor did they say any thing about going West.

Mr. CUTHBERT said he would not then enter into an irritating discussion in regard to the course which the State of Georgia had thought proper to pursue in relation to the Cherokees. In that little which he had to say, he should cautiously avoid using any expressions which would provoke an irritating debate on that subject. He rested where his State rested. She was immovable in the conviction of her own rights, and was determined to pursue that course which she believed to be correct, and was fully authorized to insist upon. That being the case, it was unnecessary that he should make any formal reply to what had been said by honorable Senators. He considered the question as settled by the country. Did any Senator, who then heard him, suppose that any course of measures which might be commenced by this Government would disturb the policy of Georgia? But he did not wish to go into the subject at that time; it had been painful to him that it had been forced into the general debate. He should say nothing more in relation to it, but would resume his seat.

Mr. FRELINGHUYSEN said he had no idea of making an assertion that would provoke a word. But, taking it for granted that Georgia intended to pursue that policy which it is said she had marked out for herself, the subject of the debate in which the Senate were engaged was not a Georgia question. The solemn and serious question, however, as connected with the course of Georgia, was, whether this Government was to legislate in such a way as would recognise her act in reference to the Cherokees. The Government had bound itself by sixteen sacred obligations to protect the Cherokee people in their rights, property, and Government. Georgia had thought proper, feeling itself called upon by motives of policy, or whatever else it might choose to term them, to invade those rights, in violation of the treaties existing between the general Government and that tribe. The Cherokees, finding themselves thus treated, had come here, and said, "You profess to be a Christian people; we call upon you for the fulfilment of those solemn and sacred obligations into which you entered with us; for the treaties have been broken by the authorities of the State of Georgia, and they have taken possession of our property, and are determined to drive us from the homes of our fathers. We call upon you, then, to protect us in our rights, our property, and our Government." Under such circumstances as these, were the Congress of the United States not only to turn a deaf ear to their complaints, but to become trespassers, despite of the solemn engagements into which they had entered with those ill-used Cherokees? Surely not; and as God was just, he would call upon the people to answer that appeal. What, Mr. F. asked, had been heard on that floor, in a grave discussion in relation to the establishment of branch mints? A proposition that one should be established at a place which was supposed to belong to these Cherokees, thereby to disregard their rights and the faith of treaties. He would not make a word of complaint against Georgia, for that was not the time to discuss the matter. Sixteen times over had the Government of the United States told the Cherokees and the world that the property which they possessed was their property; that they would protect them in it until the very last acre. He trusted the Senate would protect them. The national honor was of far more value than all the gold mines in the country. For his own part, he would rather give fifty mints, if they were necessary, than commit so flagrant and dishonorable an act as to establish one on the property of the Cherokees. If gentlemen were resolved upon having a mint in Georgia, let it be in that part of the State the jurisdiction of which was acknowledged by the general Government.

Mr. KING, of Georgia, rose and observed that, having been absent from the Senate, he had heard very few of the arguments on this subject. The little he had caught from the Senator from New Jersey, [Mr. FRELINGHUYSEN,] was, that the proposed location (of a mint) was within that part of the territory of Georgia that was vested in the Cherokees. This depended on the question whether the general Government could reconvey the soil. He desired to view this question practically. The honor of the United States was said to be involved in this matter. Honor! Where were the countless thousands of our aborigines, from Maine to Louisiana? Had the soil that belonged to them been fairly purchased? No, their bones were now fattening the soil of which they had been robbed. The State of Georgia, however, did not propose to rob the Cherokees; but it proposed, on the contrary, to pay them one hundred per cent. more for their land than it would bring were it in the market to-morrow, and turned over to the highest bidder. But how, he would ask, had Kentucky been settled? How would gentlemen account for the blood that had flowed in that State, without authority of law or constitution? Georgia would not recede from the stand she had taken in this matter. Right or wrong she ought not to recede; and she would not recede. Were the Senate to legislate, then, on an impossible supposition? The territory in question was regularly laid out and organized, was represented in the Legislature of the State, and was as much within the limits of the State as any other county in it. How, then, was it to be repurchased? But he would notice another ar-

gument. It had been asked whether this Government might not as well be called on to transport the produce of the different States to market, as to afford facilities for the coinage of States producing gold. There was no analogy in the two cases. The cotton of the South and West was free from protection. It might be manufactured on the spot where it was produced, and there sold. But in regard to the coinage of money, there was a general restriction upon the States for general purposes. Now, it had been stated by the committee that the loss to the producers of gold bullion was from four to five per cent.—a moderate calculation. A great part of this gold was worked out from the mines by men of small capital, who sold it on the spot to those engaged in the traffic. Having thrown out these scattering views, he would leave the subject in other hands.

Mr. BENTON viewed this question as one of currency; and, of all questions which any Government could discuss, that was one of the most important to the people; for every man must feel himself deeply interested in the currency of his country. There were now no less than six hundred banks in the Union employed in coining paper money. It was time that an end was put to this state of things; that that miserable trash should be utterly proscribed. He wished to see the country return to that species of currency which existed forty-five years ago, when the revenues of the federal Government were paid in gold and silver. He looked upon the passage of the gold bill at the last session as highly important, and as the first step towards the commencement of a sound and valuable circulating medium—gold and silver. He considered this as a question of paper on one side, and gold on the other. He should vote for the bill, but against the recommitment of it.

Mr. B. then asked the yeas and nays; which were ordered.

Mr. BLACK did not think it practicable to establish a currency of that kind which the honorable Senator from Missouri had mentioned. The present question had nothing to do with that matter. The only question now was, whether gold was of more value here than elsewhere. If it was of more value elsewhere, it would go out of the country; he cared not what shape it might be put into, whether eagles or any thing else.

Mr. CLAY merely rose to correct an erroneous statement made by the gentleman from Georgia, [Mr. KING,] in relation to the early history of Kentucky. He had no doubt that it was unintentional on his part. Whatever crimes the State of Kentucky was chargeable with, it was not chargeable with taking one acre of Indian land by conquest, not one acre from one end of the State to the other. Mr. C. briefly related how that State was first settled; enumerated the various treaties that were made with the Indians, and stated the sums that were given for the purchase of the lands belonging to them; ending with the extinguishment of the Indian title within the limits of Kentucky.

Mr. LEIGH bore testimony to the correctness of the historical statement of the gentleman from Kentucky.

Mr. KNIGHT said that he understood the difference in the exchange in gold between New Orleans and the northern cities was one and a quarter per cent., which was sufficient to pay the expense of its transportation to Philadelphia.

Mr. WAGGAMAN remarked that the exchange might be higher between Boston, New York, and other northern ports, and New Orleans, than it was between the latter city and Baltimore and other southern ports. The transportation of bullion between the cities of New Orleans and Philadelphia had always cost two and a half per cent. It could not be sent to Philadelphia and returned in less time than from sixty to ninety days. Then, it was to be remembered, that the interest upon that time was to be included in the expense; and interest at New Orleans was 8 per cent.

Mr. BENTON stated that the South and Southwest were put to great inconvenience in consequence of having to send their gold to Philadelphia to be coined. Owing to the great expense of transportation, and the loss of so much time, the money was frequently not returned; and the result to those parts of the country was, that they were thereby deprived of a metallic currency.

Mr. KNIGHT said much stress had been laid on the cost of transporting gold to Philadelphia and back. Why send it back, if it was worth more in Philadelphia than New Orleans? He was satisfied that gold was worth more at the former than at the latter place.

Mr. PORTER observed that he had not heard an argument that day which went to show that it was not important to have a mint established at New Orleans. In his judgment one was absolutely necessary.

Mr. CLAY said that the Senate had been told that gold and silver was one and a quarter per cent. higher in Philadelphia than at New Orleans, and that that per centage just defrayed the expense of transportation. Why did a man, possessing a given amount of Spanish milled dollars or doubloons, send them to Philadelphia? He (Mr. C.) was at a loss to know. It was to be remembered that those foreign coins would pass equally as well, and be received by every body, as the current coin of the country. The owner of the coin, then, did not ship it in order that it might be rendered current, because it was already so. Was not that the fact? Yes, it was. Those doubloons or Spanish milled dollars were shipped to Philadelphia, not because they would not pass at New Orleans, but because the course of trade demanded, or the interest of commerce required, that they should be sent to Philadelphia. Let him suppose the establishment of a mint at New Orleans, and that those Spanish milled dollars and doubloons were transformed into American silver and gold coin, what would the owner do with them then? Could he do more than pass them as he did at present? Could he do more than pass them to pay debts under the authority of law? What would he do, then, but send them to Philadelphia, if the exchange and the course of trade were in his favor? Was that a delusive argument? Gold and silver were now transported to Philadelphia because they were worth more there than at New Orleans. He thought, under all the circumstances of the case, that a branch mint at New Orleans was uncalled for and unnecessary. The arguments which had been adduced in favor of it were, in his opinion, entirely fallacious.

Mr. CALHOUN observed that, if the argument of the Senator from Kentucky proved any thing, it proved too much. The gentleman professed to be fond of retrenchment; let him, then, move that the mint situated in Philadelphia be abolished. There were many gentlemen who would be ready to second that motion. The United States had taken a monopoly into its own hands, and evinced a disposition to cling to it. And it was now proposed to subject those States who had now applied to Congress to grant them branch mints, to a continuance of that inconvenience and loss which they had so long endured. The thing was just as arbitrary as if the United States were to undertake the packing of all the cotton which was grown in the country, at a loss to the proprietor of 3 per cent. This was a question of great magnitude, of vital interest to the South, and therefore deserved the most serious consideration. He had, however, he was sorry to say, seen more persevering opposition made to it than to any other measure for the last two years. It was and ought to be treated as a sectional question, but, nevertheless, as one calculated to extend equal benefits to all the States.

Mr. CLAY said, if there had been resistance on the one side, there had also been a most unparalleled, and, he must say, unbounded perseverance on the other. This was a sectional question! Of what sectional character was it? The honorable Senator had talked about distributing equally something that would be beneficial to all the States. When the land bill was under consideration, where then were the doctrines of the gentleman in relation to distributing the proceeds equally among all the States of this confederacy? Sectional! What was there sectional in the establishment of a mint at Charlotte, or in the remote bosom of Georgia? If a proposition had been made to establish mints at some more important points of attraction, he would have voted for them with infinitely more readiness. Sectional! A little paltry expenditure of some $15,000 or $20,000. But the honorable Senator argued that if his (Mr. C's) argument proved any thing, it proved that there was no mint necessary at all. Mr. C. dissented entirely from the inferences drawn by the Senator from South Carolina on that point, and would insist that the resistance which he made to the establishment of those branch mints was based on the ground that it would be an unnecessary expenditure of the public money, quite uncalled for and unnecessary. He would repeat that, in whatever light he had viewed the measure, he had been unable to come to any other conclusion than this: that it was, in his humble judgment, delusive, uncalled for, calculated to deceive the people, to hold out ideas which will never be realized, and as utterly unworthy the consideration of the Senate.

Mr. CALHOUN expressed his astonishment at the warmth which the honorable Senator had shown in debating this question—a question which he (Mr. C.) would repeat, was as much sectional as any thing could be in one point of view; but, in another, it was national. Let gentlemen say what they would, this Government was bound, in his opinion, to establish the mints which had now been asked for.

The question was then taken on the motion to recommit the bill, and decided as follows:

YEAS—Messrs. Bell, Black, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hill, Knight, McKean, Morris, Naudain, Robbins, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Webster—21.

NAYS—Messrs. Benton, Bibb, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Porter, Preston, Robinson, Ruggles, Shepley, Tallmadge, Tyler, Waggaman, White, Wright—22.

The question was then taken on the passage of the bill, and decided as follows:

YEAS—Messrs. Benton, Bibb, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Morris, Porter, Preston, Robinson, Ruggles, Shepley, Tallmadge, Tyler, Waggaman, Webster, White, Wright—24.

NAYS—Messrs. Bell, Black, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hill, Knight, McKean, Naudain, Robbins, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson—19.

So the bill was passed and sent to the House for concurrence.

At 3 o'clock, the Senate took a recess until 5, agreeably to a vote of yesterday.

EVENING SESSION.

At 5 o'clock, Mr. KING, of Alabama, (in the chair) called the Senate to order.

JUDICIAL CIRCUITS.

Mr. CLAYTON, from the Committee on the Judiciary, reported, according to instructions, the bill supplementary to the act to amend the judicial system, with amendments.

After some remarks by Mr. CLAYTON, in explanation of the amendments, the amendments were concurred in.

On motion of Mr. LEIGH, the bill was amended so as to make the days for holding the courts in Maryland the 1st day of April, and the 1st day of October.

The bill was then reported with the amendment, and ordered to be engrossed for a third reading.

Mr. CLAYTON said that he had now faithfully obeyed the instructions of the Senate to report this bill, which he had drawn so as to carry into execution the intentions of the friends of the plan of dismembering the ancient fourth circuit. Having done thus much in the discharge of his duties as chairman of the committee, it only remained for him, in pursuance of the principle he had adopted for his own government, on this important subject, to vote against the bill; and he regretted that, in consequence of the lateness of the hour, and the near approach of the close of the session, no opportunity was afforded him of discussing the subject before the vote was taken.

The bill was then read a third time (to give the other House an opportunity to deliberate upon it) and passed, by yeas and nays, as follows:

YEAS—Messrs. Bell, Benton, Bibb, Black, Brown, Buchanan, Calhoun, Clay, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kane, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Naudain, Porter, Preston, Robbins, Robinson, Silsbee, Southard, Swift, Tipton, Tomlinson, Webster, White—31.

NAYS—Messrs. Clayton, Cuthbert, Hill, Shepley, Tallmadge—5.

DISTRICT OF COLUMBIA.

On motion of Mr. SOUTHARD, the Senate took up for consideration, as in Committee of the Whole, the bill for the relief of the cities of Washington, Georgetown, and Alexandria.

Mr. TYLER said that, last year, when this same subject was before Congress it met with considerable opposition. At this session, the District committees of the two Houses met in joint session, and it was with considerable difficulty that the committees had agreed upon a measure of relief. The city of Washington has contracted a large foreign debt, which it cannot discharge without the interposition of this Government. By the arrangements which had been made with regard to their debts, the citizens of this city are rendered liable to have their property sold. Last year, under the same pressing necessity, the sum of $70,000 was voted for their relief; and now the reasons for relief have come before Congress with accumulated force; and the probability is, that, for the coming year, there will not be $14,000 of available funds in their treasury; and their property is subject to the influence of the act of the Government. The agents of the foreign creditors are here, ready to purchase the property of these citizens of Washington under the hammer; so that there is danger, emphatically, that this city may be "sold to the Dutch." Two remedies present themselves to our consideration for this case, either to pay off the debt, or grant present relief. To the first, some gentlemen thought a question of principle stood in the way; and he (Mr. T.) who was among the straight-laced in regard to the constitutional powers of Congress, confessed that the principle was an obstacle in his mind; for he thought Congress could just as well, and with as much justice, pay off the debts of private individuals. He therefore thought that his was by far the best remedy of granting relief. It is placed in some sort on the footing of a loan, and looks to the Chesapeake and Ohio canal stock for

indemnity, on the ground that they will surrender all their interests in this canal to the Government. He held that as a fund had arisen from the sale of public lots in Washington, amounting to some $600,000, Congress had a right to apply that sum to any purposes they might think proper, within the District; and the reason for extending them relief was enhanced, when it was recollected that Congress itself held out inducements to subscribe to this stock, and thus to incur the debt.

Mr. BIBB said he was last year opposed to the bill giving relief to this city; but since then he had examined the question, and deliberately came to the conclusion that we ought to grant relief. On reading the act under which this burdensome loan had been made, he thought Congress were under a pledge to pay the debt. Undoubtedly it is an act which on its face bears the impression of the encouragement of Congress to go into these expenses and to borrow money on their own responsibility. He believed that the people here had to pay a higher tax than was paid by any other people in the United States; he believed the average of taxes usually was six and ten cents upon the assessment of every hundred dollars; here the assessment was one dollar and twenty-five cents upon that assessment. And as Congress had been the means by which this state of things has been introduced and imposed upon this city, and as we are their local Legislature, they ought to be freed from so very oppressive a burden. It is only appropriating those funds which have been donated to the Government of the United States.

Mr. BLACK said he was opposed to this proposition last year, when it was reduced to an appropriation of $70,000 for one year, and then adopted upon the express understanding that it was not to be pressed again. The gentleman from Massachusetts [Mr. WEBSTER] then declared in his place, that when the application was made to Congress for permission to incur this debt, the people of Washington used persuasions and supplications for the purpose, and he warned them against incurring it, on the ground that they never would be able to pay it. The law, he confessed, was a singular one, and it was only to be accounted for on the ground that it was formed upon their own solicitations. He would rather vote for the bill as a gift than as a loan; for if it is loaned, it is gone for ever, just as if it is given; and we have the same authority to give as to loan. But it is brought forward now in a new dress, and in a more imposing form, and appealing to our feelings. He was opposed to the bill on constitutional grounds, and asked the yeas and nays upon the bill; which were ordered.

Some further remarks were made by Mr. SOUTHARD and Mr. LEIGH in favor of the bill, and by Mr. BLACK against it; when, without taking the question,

On motion of Mr. FRELINGHUYSEN,

The Senate adjourned.

WEDNESDAY, FEBRUARY 25.

ALABAMA TWO PER CENT. FUND.

Mr. KING, of Alabama, moved that the bill providing for the application of the two per cent. arising from the sale of lands in Alabama be taken up.

Mr. K. moved so to amend the bill as to apply the two per cent. reserved for the purpose of making roads to Alabama, towards the construction of a railroad from the Tennessee river to Mobile bay.

Mr. K. addressed the Senate in support of the bill.

Mr. CLAY opposed the grant of these funds to Alabama: it (Alabama) was not an island to which no road could lead, it wanted roads to it; he himself (Mr. C.) thought of going some day or other to this paradise of States, and he hoped there would be a good road to it.

As he considered the information on this subject imperfect, and the time premature, he would move that the bill be laid upon the table.

Several divisions took place without a decision; when the ayes and noes being called for a further discussion ensued.

Mr. FRELINGHUYSEN wished to know if Alabama intended to expend any money on this project?

Mr. KING explained, implying (as we understood) that it was her intention.

Mr. EWING thought the proposed use of the fund as good, and indeed better, than the purpose for which it was originally granted; he would therefore now, as before, give his support to this bill.

Mr. PORTER considered the bill based upon a violation of compact; and, furthermore, as it tended to divert the cotton trade from New Orleans to Mobile, he would oppose the bill. If it went only to remove the obstructions of the Muscle shoals, he would not object to it; but it was a measure which tended to injure New Orleans, and he should oppose it.

Mr. KING thought it a strange argument to be employed by a Senator learned in the law, to oppose a measure because it would, as he thought, injure his own city, and at the same time to profess that he opposed it because it was a violation of compact; which violation, however, he would be willing to connive at, if it did not seem to him likely to operate against his own section of the country.

Mr. PORTER explained. He thought it a violation of compact. The compact says roads to Alabama; the gentleman wants to employ the fund for roads in Alabama.

Mr. EWING urged that when two parties to a compact mutually agree to dissolve or alter their compact, it was absurd to say there was a violation of compact; and it could not be urged by a third party that there was a violation merely because this third party thought it might lose certain advantages which it had promised itself by the compact between the former two parties; they could dissolve their compact without any such interference of another party. This was an axiom in law.

Mr. PRESTON suggested the connexion between Alabama and the ocean via Charleston, South Carolina, as accomplishing the objects designed by Alabama. A railroad was already in operation from Charleston to Augusta; Georgia had begun another to Athens, and a third was projected from Athens to the Muscle shoals, on the Tennessee. This would connect Alabama with the Atlantic better than via Mobile; the route was already begun, and he hoped it would be supported by the States adjacent and by the United States: he proposed this fund to be employed for this great national object.

After some further remarks by Messrs. KING and CLAY, the motion to lay upon the table was again put and carried: Yeas 18, nays 7.

DISTRICT OF COLUMBIA.

The Senate resumed the unfinished business of last evening, being the bill for the benefit of the corporations of Washington, Georgetown, and Alexandria.

[The bill as reported granted $70,000 a year, for five years, to the corporation of Washington; and $17,500 each to the corporations of Alexandria and Georgetown, for the same period.]

Mr. BENTON regretted that he should be compelled to vote against the bill, unless its friends were willing to take the relief it proposed for one year, and leave the rest to future legislation by Congress. The people of this city, he said, labored under peculiar grievances—great expenses had been thrown upon them which entitled them to all the indulgence which we can extend to them. This Government exacted hard terms in

getting the ground on which this city is located, for their own use. Many lots in this city have been sold at great amounts, and those which yet remain are estimated at between 2 and $3,000,000. He thought the best thing we could do would be to set apart the building lots, the proceeds of which should be applied as a sinking fund to pay this debt. One great objection with him was, that to extend this bill to five years was an encroachment for four years upon our successors. His proposition to limit it to one year was a quiet, easy, and almost imperceptible mode of granting effectual relief; but by passing the bill in its present shape, it was virtually imposing upon the the treasury of this country a burden of near $2,000,000. Mr. B. said he would be extremely sorry if, by voting against the bill, it should be lost; for a residence of fourteen years in Washington had convinced him that its citizens should be favored. He wished to be generous to them, but he wished also to prevent the treasury from being saddled with a debt of two millions.

Mr. SOUTHARD said that the bill was the result of the joint consultation of the two committees on the District, and to alter it as suggested, would be the means of defeat. He was much gratified by the expression of feeling and opinions of the honorable gentleman from Missouri, and, as far as he could, he would yield to his views. He said the appropriation was not for payment of the whole debts of the city, but for that which was contracted for the purposes of the canal. We cannot at the present session form and mature such a bill as the gentleman's views would require, or as he would seem to suggest. A difficulty was presented, from the situation of the public grounds. It would require time to investigate how many lots could be spared from the uses or probable calls of the Government.

Mr. BENTON said he was aware that his suggestion would defeat the bill, and his object in making it was to gain time to make the necessary investigation. He therefore moved the necessary amendments to the bill, so as to make the appropriation to each of the cities for one year only.

Mr. TYLER stated that, if the bill were to pass in its original form, the effect would be the removal of the incubus which now lies on the city, and presses it to the earth, the restoration of activity, and the advance of the value of landed property from ten to twenty per cent. But if the relief were only granted from year to year, it could produce no such beneficial result. There were citizens who calculated that, when the Chesapeake and Ohio canal shall reach the Cumberland mountain, the wealth to be poured into the city would enable it to extricate itself from all its embarrassments, and to repay the loan granted by the general Government. In conclusion, he declared that he intended no figure of speech when he said that, if we did not pass this bill, the city of Washington will be sold to the Dutch.

Mr. BENTON repeated his former argument for the information of the Senator from Virginia, who was absent while he was speaking before. He asked how long it would be before the corporation would be able to absorb its uncurrent notes.

Mr. SOUTHARD replied: "Probably in the course of the present year."

Mr. BENTON expressed a hope that the temporary relief would be now given, and that a permanent measure would be adopted next session. At any rate, Congress could not suffer the city to be sold.

Mr. SOUTHARD said that, if the bill were passed in its original form, the results would be, as had been pointed out, the enhancement of the value of the private property, and also of the public lots to which the Senator from Missouri looked as a fund. If ever the Chesapeake and Ohio canal can become profitable to the city, it will have proved so before the expiration of five years, and Congress can then, if it be necessary to legislate on the subject at all, legislate with a full understanding of the subject.

The question was then taken, and the amendment was agreed to. The bill was further amended, to correspond with the other portions of the bill.

The question being on engrossment,

Mr. CLAY said he should vote for it in its present shape, for the purpose of relieving the pressing necessities of this city, but he hoped at another session that the Committee on the District would introduce a bill to take the stock of the canal, and assume the whole foreign debt. That he believed to be the only essential relief we could extend to them.

Mr. PRESTON expressed his intention to vote for the bill; but he did so only from dire necessity. He would vote for it only to prevent the city of Washington from being "sold to the Dutch."

Mr. CALHOUN sincerely felt for the situation in which the city was placed, but he could understand this bill as nothing more or less than a proposition to make a donation of so much of the people's money to them. He really commiserated their unfortunate situation; but he thought we had no right to give the property of the people away as was proposed. This bill was setting a bad precedent. These people must suffer; and to relieve them now would only be an inducement to them to incur greater debts, in the belief that Congress would always assist them. He recommended them, as a friend, to depend upon their own resources and industry, which alone could give them lasting relief.

Mr. BUCHANAN said, when this bill first came up he thought he had determined to vote against it, and he certainly should have done so if it had not been for the change which had been made in it, upon the motion of the honorable gentleman from Missouri. But now he felt that he was in some measure under duresse with regard to it, and could not vote against it. He differed, however, from the gentleman from Virginia, [Mr. LEIGH,] that the law which authorized this debt to be incurred could be construed into a guarantee on the part of the Government to pay the debt; he declined entering into that question now. But the President of the United States was made the executor of the law, and if this bill did not pass it would be the President's duty to sell this city. He would vote for the bill for once; but, with the gentleman from South Carolina, [Mr. CALHOUN,] he would advise the people of this city to depend upon their own energies and industry for substantial relief, and cease their applications to Congress.

Mr. TYLER said he was very sorry the gentleman from Pennsylvania could not vote for further relief than by giving his support to this bill. For, to be candid on the subject, if the relief is not to be continued, this appropriation will be of no manner of use whatever. The truth is, the energies of these people are entirely crippled, and their means of strength prostrated in the dust. He hoped at the next session the honorable gentleman would open his heart and be willing to grant permanent relief.

Mr. KING, of Georgia, said that he too wished to give in his experience on the subject of this bill. With him the conflict between inclination and duty had been a most painful one. And, like some others, he had made up his mind to vote for the bill with the greatest reluctance. He had been surprised by a reference to the act authorizing the loan to find that, as between the Government and the contractors of the loan, Congress had virtually guarantied the debt. The honor of the nation, then, was pledged for the payment of the debt. And, on a hasty inquiry into the affairs of these three cities, he did not believe it in their power, at present,

to discharge the debt. And, like others, he had no idea of seeing the capital of the Union in the hands of the Dutch.

Some gentlemen, he said, had constitutional scruples on the subject. It was thought we had no power to make a gratuity to the people of the District. He did not feel these scruples, though he had not given a studied examination to the subject. He was, he thought, generally as much in favor of a strict construction of the constitution as any other Senator; but, as at present impressed, he thought that, whatever restrictions were placed upon us when legislating for the States, there was no restriction upon our sovereignty here—but power, and the propriety of its exercise, were different questions. We might possess the power and refuse to exercise it, on the score of justice and expediency; and here he thought was the difficulty in the measure before the Senate. For if there was any theory in which we all agreed, it was that republican Government is, or ought to be, an association upon the principles of equality. What claims, then, (said Mr. K.,) have the people of this city, as a part of the great American family, to a gratuity from this Government, more than Charleston, or any other city in the Union? They had a claim to our legislation for the usual purposes of Government, to direct and concentrate the energies of the people to the greatest advantage; but they had no exclusive claims to our bounty at the expense of the rest of the Union.

With these views it would be seen with what reluctance he voted for the bill, and he wished it further understood that he did not stand pledged to go further at the next session, if, in the mean time, he could ascertain that it was possible for the cities of the District to pay their own debts.

Mr. KING, of Alabama, protested against this law being interpreted as any guarantee, on the part of Congress, either to pay this debt or its interest. The question, then, was, simply, whether we shall relieve the people of Washington. He should vote for the bill as it was now, but he would have voted for it as it was originally, because he thought the Congress of the United States ought not quietly to sit by and see the capital of the country sold under the hammer.

Mr. BIBB would vote for the bill, because he considered the public faith was involved in it, and he held public faith to be beyond all price.

Mr. LEIGH vindicated the construction he had been, last night, induced to put on the bill, and repeated what he then said, that not one foot of the city could be sold, because no one would buy. The loss, if loss there was, would fall on the Dutch lenders, and the disgrace on the city.

Mr. WAGGAMAN said he should vote for the bill, because he thought there was a moral obligation on the Government to pay this debt; and on the same principle he would be willing to vote for the payment of the entire debt.

The question was then taken on the engrossment of the bill, and decided as follows:

YEAS—Messrs. Benton, Bibb, Buchanan, Clay, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Kane, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Naudain, Porter, Preston, Robbins, Silsbee, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster—27.

NAYS—Messrs. Black, Brown, Calhoun, Grundy, Hendricks, Hill, Mangum, Morris, Prentiss, Robinson, Ruggles, Shepley, Tipton, Wright—14.

Mr. BENTON moved to rescind the order for a recess from 3 till 5 o'clock: Yeas 15, nays 18.

The Senate then, it being 3 o'clock, took a recess until 5.

EVENING SESSION.

The following resolutions, offered some days since by Mr. HILL, were taken up for consideration:

Resolved, That all the responsibilities and debts incurred by the Postmaster General in executing that part of his duty, prescribed by a law of Congress, which requires that he shall "provide for the carriage of the mail on all post roads that are or may be established by law," and "that he shall pay all expenses which may arise in conducting the Post Office, and in the conveyance of the mail, and all other necessary expenses arising on the collection of the revenues and management of the General Post Office," are good and valid, and binding on the Department of the General Post Office; that the faith of the said Department is lawfully pledged to the discharge of all such debts, to the full amount of its receipts; and that any law of Congress, which shall divert those receipts to any other purpose than the discharge of such debts, while any shall remain unpaid, will be unjust and improper.

Resolved, That the law of the United States (with the exception of unproductive routes, as particularly specified) leaves it entirely in the discretion of the Postmaster General how often, and in what manner, whether in carriages, by single horses, or otherwise, the mail of the United States shall be carried over post roads established by law.

Resolved, That the Secretary of the Senate be instructed to report the aggregate of the expense that has been incurred by the Committee on the Post Office and Post Roads, over and above the ordinary pay during each session of the members of said committee, as Senators—distinguishing the amount expended during the session of the Senate from the amount expended during the recess—the daily pay, and pay for travel, allowed to their secretary, clerks, or accountants, and all other persons by them employed, or called on as witnesses—designating the per diem, travel, and amount paid to each individual by name.

Mr. HILL then moved the following additional resolution:

Resolved, That no evidence appears in the report of any committee of the Senate which goes to impeach the private or official integrity of William T. Barry, Postmaster General; that the extra allowances under his direction made to mail contractors, and the method of receiving combined bids on advertised proposals for carrying mails, are a continuation of the former practice of the Post Office Department; and that the defects and irregularities of the Department have been a natural consequence of the want of a due organization of the Department by Congress.

Mr. TALLMADGE moved to lay the resolutions and amendment on the table; but withdrew it.

Mr. HILL renewed the motion, and it was agreed to.

PUBLIC DEPOSITES.

The Senate proceeded to consider the bill from the select committee, to regulate the public deposites.

Mr. CALHOUN moved to amend the bill in the third section, by introducing certain words making it more imperative in its action; and the amendment was agreed to.

Mr. CALHOUN moved to fill the blank specifying the per centum to be paid by the banks on the public deposites.

Mr. KING, of Alabama, resisted the motion, on the ground that the western and southwestern banks would not take the deposites on such terms. He wished a discretion to be left with the Treasury as to this point.

Mr. CALHOUN said it might be proper to invest the Secretary with a discretion, where the deposites were of small amount. And if any gentleman prepared an

amendment to that effect, he would be quite willing to adopt it.

After some remarks from Mr. KING, of Georgia, which were inaudible,

Mr. PRESTON read a proviso to the bill, giving a discretion to the Secretary, where the deposites did not exceed 100,000 dollars.

Mr. KNIGHT thought that the interest demanded ought to be in proportion to the rate of interest at the place where the banks were situated.

Mr. SILSBEE said he should not vote on this bill, because he was interested in a bank. But he thought if the interest were kept up at two and a half per cent. the effect would be to withdraw the deposites from some of the best banks, who could and would not pay so large an interest.

Mr. SHEPLEY made a few remarks.

Mr. BUCHANAN then moved to strike out the half per cent.

Mr. KNIGHT said he should vote for the two per cent.

Mr. CALHOUN withdrew his motion for two and a half per cent.

The blank was then filled with two per cent.

Mr. PRESTON moved to amend the section by adding a proviso, that when the deposites shall fall below 100,000 dollars quarterly, the Secretary may, at his discretion, apportion the interest.

Mr. EWING moved to strike out $100,000, and insert 50,000.

After some short discussion between Mr. KING of Alabama, Mr. CALHOUN, Mr. CLAYTON, Mr. PRESTON, Mr. WEBSTER, Mr. EWING, and Mr. BUCHANAN,

The Senate adjourned.

THURSDAY, FEBRUARY 26.

Mr. SHEPLEY presented the credentials of the honorable JOHN RUGGLES, elected a Senator from the State of Maine, for six years, commencing from the 4th day of March next.

FRENCH RELATIONS.

A message was received from the President of the United States, enclosing copies of the correspondence which has taken place between Mr. Livingston and Mr. Forsyth, and Mr. Forsyth and M. Serurier, since the last communication. The message and documents having been read, were ordered to be printed, and referred to the Committee on Foreign Relations.

On motion of Mr. TIPTON, the Senate proceeded to the consideration of executive business, and, at one o'clock, the doors being reopened,

The Senate took up the bill to authorize the Leavenworth and Bloomington, and other railroad companies therein named, to locate roads through the public lands; which led to considerable discussion, and which, being amended, was ordered to be engrossed for a third reading.

PUBLIC DEPOSITES.

The Senate resumed the consideration of the unfinished business, being the bill to regulate the public deposites. The following is a copy of the bill:

[A BILL to regulate the deposites of the public money.

Be it enacted, &c., That the State banks in which the public funds are now, or may hereafter be, deposited, shall pay, for the use of the same, — per cent. per annum, to be calculated on the average quarterly deposites; the amount to be carried by said banks to the credit of the United States within ten days of the end of each quarter.

SEC. 2. *And be it further enacted*, That all warrants or orders for the purpose of transferring public funds from the banks in which they are now, or may hereafter be, deposited, to other banks, whether of deposite or not, for the purpose of accommodating the banks to which the transfer may be made, or to sustain their credit, or for any other purpose whatever, except it be to facilitate the public disbursements, be, and the same are hereby, prohibited, and declared to be illegal.

SEC. 3. *And be it further enacted*, That the public funds shall not be removed from the banks in which they are now, or may hereafter be, deposited, without the consent of Congress, except in cases where the Secretary of the Treasury shall, in his opinion, have good cause to apprehend that the funds are insecure; or where a bank of deposite shall refuse or neglect to perform the duties, or conform to the conditions or regulations, which the Secretary of the Treasury is hereinafter authorized to prescribe; in which cases the Secretary may, and he is hereby authorized to, suspend all further deposites of the public funds in said bank, and to remove those in deposite, and in which case he shall select some solvent and safe bank to receive the deposites, in the place of the bank from which they shall have been removed: *Provided, always*, That it shall be the duty of the said Secretary to report to Congress immediately, if in session, and if not, in the first week of their next session, the reasons for such suspension and removal: *And provided, further*, That the suspension, unless approved by Congress, shall not continue in force beyond the termination of the session to which the report aforesaid shall have been made.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury shall have the authority, and he is authorized and required, forthwith, to prescribe such rules, regulations, and conditions, as he may think proper in relation to the banks in which the public funds are now, or may hereafter be, deposited, with the view to their safe-keeping, and the faithful performance of their duties by said banks, and the carrying into effect the provisions of this act; and which he shall lay before Congress, for its sanction, at the commencement of the next session.

SEC. 5. *And be it further enacted*, That, in case any bank which is now, or may hereafter become, a bank of deposite, shall cease to exist, or discontinue banking operations on account of the expiration of its charter, or other cause; or in case the convenience of the Treasury shall hereafter require a bank of deposite where there is none existing, the said Secretary may, and he is hereby authorized to, select some solvent and safe bank, as a bank of deposite, in the place of that which may have expired or discontinued operations; or in the case where there may be no existing bank of deposite at a place where the convenience of the Treasury may require one, to select a bank of the same character, having due regard as to its location, to the facility of collecting and disbursing the public revenue: *Provided, always*, That it shall be the duty of the said Secretary, in either case, to report the fact of such selection immediately to Congress, if in session, and if not, during the first week of the next succeeding session, for its sanction: *And provided, also*, That the bank so selected shall continue to be a bank of deposite to the end of the session to which such report shall have been made, and no longer, unless sanctioned by Congress.]

The question being on the proviso offered by Mr. PRESTON, that where the public deposites should fall short of 100,000 dollars quarterly, a discretion is given to the Secretary of the Treasury to receive a rate of interest below two per centum on the amount of deposites, a motion to amend which, by inserting 50,000 instead of 100,000, was made by Mr. EWING.

The motion to insert 50,000 was agreed to, and the proviso, as amended, was adopted.

Some other amendments, of a verbal or unimportant character, were moved and agreed to.

Mr. WEBSTER then moved to amend the bill by adding a new section, the purport of which was, that in every city or place in which there is an office of the Bank of the United States, the banks in which the deposites are placed shall render the same services to the Government which have been rendered by the United States Bank or any of its offices.

After some discussion, the question was taken on the motion to amend, by yeas and nays, and decided in the affirmative.

YEAS—Messrs. Benton, Bibb, Black, Brown, Buchanan, Calhoun, Clay, Clayton, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Hill, Kane, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Porter, Prentiss, Preston, Robbins, Robinson, Ruggles, Shepley, Southard, Swift, Tipton, Tomlinson, Waggaman, Webster, White—37.

NAYS—None.

Mr. WEBSTER then moved to amend the bill by adding a section, requiring every bank in which the deposites may be placed to make monthly returns to the Treasury, from which abstracts shall be made and communicated to Congress.

[Pending the discussion of this amendment, Mr. CLAY expressed a hope that, by general consent, the order for a recess would be rescinded; and it was rescinded accordingly.]

Mr. KING asked for a division of the question, so as to make it first on the subject of monthly returns.

The question was then taken on the first branch of the amendment, and decided in the affirmative.

The question was then taken on the remainder of the amendment, by yeas and nays, and decided as follows:

YEAS—Messrs. Benton, Bibb, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hill, Kent, Knight, Leigh, McKean, Naudain, Porter, Prentiss, Preston, Robbins, Robinson, Southard, Swift, Tomlinson, Waggaman, Webster, White--25.

NAYS—Messrs. Black, Brown, Buchanan, Cuthbert, Kane, King of Alabama, Linn, Morris, Ruggles, Shepley, Tallmadge, Tipton—12.

Mr. WEBSTER moved the following, as an additional section:

"SEC. 19. That all the warrants or drafts of the Treasury of the United States, or such as shall be authorized by the Treasury Department, drawn on any deposite bank, shall be payable in gold and silver, if the holder desire to receive the same; and no such warrant or draft, nor any check, draft, or bill of exchange, given or received in payment thereof, shall be expressed to be payable in 'current bank bills,' or in any other medium than the lawful currency of the country."

On offering this amendment,

Mr. WEBSTER said that, in discussing the provisions and merits of this bill, it was necessary so often to allude to the Bank of the United States, and the withdrawal of the Government deposites from that institution, that he would take occasion to say a few words, and they should be very few, upon that subject. In the first place, he wished to say that he considered the question of renewing the bank charter as entirely settled. It could not be renewed. Public opinion, he thought very unfortunately for the country, had decided against it; and while there was a strong and prevailing sentiment in the minds of the community against a measure, it was quite useless to move such measure. For himself, he should take no part in any attempt to renew the charter of the bank. The people had decided against its continuance, and it must expire.

Of the causes, said Mr. W., which have produced this impression in the public opinion, I do not now intend to speak at large; they are sufficiently obvious. The bank has been assailed by party, mainly, as I believe, because it would not yield itself to party objects. No cry was raised against its constitutionality, no doubt expressed on that point, till its directors had resisted suggestions, the effect of which would have been to render the bank a servile instrument in the hands of political men. In my judgment, those directors were entirely right; and the country, I think, should rejoice that they staked and risked the continuance of the charter on that point. They could easily have secured the renewal of their charter. A little compliance would have done the whole business. They were courted before they were denounced. If, in 1829 and 1830, they would have consented to make a partnership with the Treasury, and to yield themselves to power, they would have been commended, extolled in many a message and report, and enabled to take their own time for a renewal. The bank has fallen in its independence, and by reason of its independence. It should be proven so to have fallen; and it is much better for the country that it should thus fall, than that it should purchase a prolonged existence by rendering itself a tool of party power.

It is well known to be my opinion that direct injustice was done to the bank in the withdrawal of the deposites; and injustice has been done to it also, as I think, by the gross and unfounded imputations made upon its general management. The bank now, for many years, has accomplished every object intended by its establishment. It has reformed the currency, sustained it when reformed, and upheld a system of internal exchange, safe, cheap, and of unprecedented and unparalleled facility. No country has seen the like; nor shall we see it soon again when the operations of the bank shall cease. The directors, of late years especially, have had a most difficult and undesirable duty to perform; but they have performed it, as I think, with entire uprightness, and great ability. Every fair investigation has proved this, and the state of the bank itself, the best of all proofs, abundantly shows it. The time will come, I am sure, when justice will be done them, universally, as it is done them now by those who have sought for information, and have formed their judgments with candor and good sense. Still, partly on constitutional grounds, and partly on other grounds, a majority of the people appear to have decided against renewing the charter.

He should not, therefore, Mr. W. said, make any movement looking to the renewal of the charter.

Nor should he, if he remained in public life, join in any attempt, at any time hereafter, to establish a new national bank, till experience of its want should have satisfied the country of its great utility or indispensable necessity. That the time would come when the country would feel the fullest conviction of this necessity, he did not doubt; but that conviction, he thought, was likely to be brought about only by experience. If, while he remained here, there should be a general call of the country for a new national institution, he should of course be ready to aid in its establishment, on principles which have been proved to be safe, and with any amendments which experience may have suggested. But, for himself, it was his stated purpose to do nothing more in relation to a national bank till a decisive lead should be given in that direction by the public opinion.

In the next place, he wished to say that the "experiment," upon the success of which gentlemen had felicitated themselves, had not, in his opinion, undergone any trial at all. It had been put to no test.

There are two public objects, both of great importance, said Mr. W., in the accomplishment of which the

Bank of the United States, in my opinion, has been generally successful. I mean the transmission of public funds, and other facilities to the operations of the Treasury, as one of these objects; and a safe, cheap, and admirable system of internal exchanges as the other. These objects were both attained by the skilful administration of the bank, to such a degree as left little or nothing to be wished. By internal exchanges, I intend the whole operation of internal bills of exchange, and the circulation, also, of a paper currency, always safe, founded on solid capital, and every where, in every nook and corner of the country, as well as on the exchanges of the great cities, always of the same value as gold and silver, except, indeed, where the bills of the bank have been preferred to gold and silver, as being better suited to the purposes of remittance. Now, sir, it has been predicted that the State banks, selected as deposite banks, could equally well accomplish all these objects; that they could as readily and as completely facilitate the operations of the Treasury, and that they could, and would also, furnish a general currency, as sound and as well accredited; and that they could and would be able to conduct the internal exchanges of commerce as safely and as cheaply. Of all this I have doubted; but the day of argument is passed, and the system now awaits the unerring result of experience. But the time for that experience has not yet arrived. Up to the present moment, the country has enjoyed, and does now enjoy, the benefit of the circulation of the bills of the Bank of the United States. The amount of that circulation is now eighteen or twenty millions, and it is diffused over every part of the country, and abounds, more especially, in those places where it is more particularly needed, and, indeed, is kept there because it is there most needed. Here is a medium of exchange, every where to be had, and to be had without charge. A hundred dollars in gold and silver buy a post note of the Bank of the United States in New Orleans, or Mobile, or St. Louis, and it is remitted to Philadelphia or New York, without danger, and without expense. The whole mass of the circulation of the Bank of the United States, therefore, is at this moment in active operation, in expediting and facilitating exchanges, and, indeed, in assisting the operations of the Treasury, and the deposite banks themselves, by affording a medium of universal credits. The present system, therefore, still rests, substantially, on the Bank of the United States.

It is the credit and the circulation of the bills of that bank which still sustain the accustomed operations of internal commerce; and the bank still exercises all that wholesome control over the currency of the country which it has heretofore done. But the bank is about to expire. These eighteen or twenty millions must be gradually withdrawn from circulation, though they may come in very slowly, and be drawn very reluctantly from the hands which hold them; so that the circulation of the bills may more or less continue for a considerable time after the charter shall expire. In this way I have no doubt of its continuance to do good for some time after its legal existence shall have ceased. There will be no rush for payment of its notes and bills, because there will be no doubt about the sufficiency of the fund. There will be no haste to get rid of them, because they will be better than any other paper, and better than gold and silver.

Seeing that its charter is to expire, and finding itself suffering the hostility of Government, the bank will naturally be induced to wind up its affairs successfully, and to make the most it can for the interest of the stockholders; and if nothing should occur to interrupt the commercial business of the country, the bank may approach the end of its charter with a large amount of loans and of bills in circulation. Until these shall disappear, and be replaced by a new capital and a new currency, there will be no "experiment" at all. The bank would appear now to be doing as large a business as usual, though deprived of the Government deposites. Its perfect credit and its good management enable it to do this. There has been, therefore, no withdrawal of the means of circulation and exchange, by bills. In the mean time, the deposites have gone to the State banks, and have increased, of course, their ability. If, after the Bank of the United States shall have withdrawn its loans and bills, and wound up all its affairs, it shall appear that five or six hundred State banks shall be able, for any length of time, to furnish a currency as safe, as universal, as much accredited, as effectual for the purpose of cheap exchange, as has been furnished by the Bank of the United States, and all this in times of adversity, as well as in times of prosperity, then the experiment may be said to have succeeded. He was not one of those, Mr. W. said, who expected such a result. On the contrary, he looked not only for great inconvenience in the important concern of internal exchanges, but for great irregularities in the paper currency of the country also, in moments of commercial pressure or disaster, if it were left entirely subject to the interest or the discretion of so great a number of State institutions.

But the bank must wind up its affairs; its debts must be collected, and its circulation, after a while, entirely withdrawn; and, when this takes place, or begins to take place, then, and not till then, the existing Government "experiment" will begin to be put to the proof. At present, all is fair weather; the question is, how will it be, when it becomes necessary to fill up the void occasioned by withdrawing the bills of the Bank of the United States, by notes of the deposite banks? When these banks shall be brought to rely on their own means, their own credit, and their own facilities; when the substantial succor of a universally accredited paper currency, of twenty millions in amount, shall be withdrawn, then the experiment will be put on trial.

It is known, sir, that I am one of those who believe in the impracticability of an exclusive, or of a general metallic currency. Such a currency is not suited to the age, nor to commercial convenience. The return of the golden age is a dream. There will continue to be banks; and the mass of circulation will be a paper circulation of some kind; and the question will be, whether State institutions, associated together as deposite banks, can furnish a sound and universally accredited circulation.

At present they are not proved capable of any such thing. If a gentleman here wishes to remit money to New England, or to the Ohio river, he certainly does not send bills of the deposite bank of this District. If a single individual has done that, by way of trying the "experiment," he probably does not repeat the trial; and, at any rate, the example is not generally followed. Deposite banks pay specie; which is, so far, very well. And a person with a check on one of those banks can obtain specie; and, with that specie, he can obtain bills of the Bank of the United States. And this is the process he will go through, if he wish to remit money in the shape of bank notes to any considerable distance. In fact, that is well known to be the only practice. How this is to be effected, when there shall be no longer notes of the Bank of the United States to be had, remains to be seen.

I have said, sir, the day of trial has not come, and that all as yet seems clear weather. But I have recently learned some symptoms of approaching squalls; some little specks of clouds, at least, make their appearance above the horizon. I learn, from authority not to be questioned, that, within the last week or ten days, a

Treasury warrant was drawn on a deposite bank in one of the cities, payable in another city. The bank on which the warrant was drawn offered to pay in a check on a bank in the city where the warrant was payable; and, when the check was presented, it was found to be made payable in current bank notes. Here, I think, sir, there is, as I have said, a small cloud darkening the early dawn of the new golden day of our currency. Even so soon as the present hour, Treasury drafts are thus offered to be paid in current bank notes. I have very good reason to believe, sir, that other deposite banks draw their checks, in like manner, payable in current bank notes. And I have called the attention of the Senate to these occurrences, not merely to expose the practice, but to correct it also. I wish to stop it at the threshold, by declaring it illegal; and I have prepared a section, which I trust the Senate will see the importance of inserting in this bill.

Mr. EWING said he had always believed that the local banks would be found unable to carry on the operations of the Government, but he had not expected that they would so soon reach the point of failure.

Mr. BENTON expressed his high indignation at the attempt to which the Senator from Massachusetts had alluded, and was ready to go as far as that Senator, if not farther, to prevent any recurrence. He was disposed to go so far as to hold up to the public the names of any of the banks which had thus acted.

Mr. B. said that the fact stated by the gentleman from Massachusetts, he apprehended to be as he had represented it; and he took the occasion to express his highest indignation at it; and he was willing to go as far, or farther, than any other gentleman to prevent it. When Mr. Gallatin, in 1811, made arrangements for payment of all Treasury warrants, he expressly required them to be paid in gold and silver. This arrangement was what he expected at this time; and he would not only concur in the amendment, but he would go further, and concur in an inquiry why there had been any relaxation from what he thought last year would have been the system adopted.

Mr. LEIGH said that no one who knew the views and opinions of the honorable gentleman from Missouri on this subject, would feel surprised at the expression of his indignation and regret at such a departure from the principles he has advocated. All believe that the gentleman wishes to restore a hard-money currency; but he (Mr. L.) had not been so sanguine as to the practicability of restoring it so suddenly as the honorable gentleman thought it could be done. He begged leave to ask the gentleman whether he thought it practicable to restore a hard-money currency by the action of this Government, if the States persisted in their present banking system, and when there was such an increase in banking capital in so many of the States. In order to restore such a currency, he thought it indispensable that the State banking system should be diminished. In Virginia, where there is as much hostility to the Bank of the United States, and where the banking system generally is as unpopular as it is in any State of the Union, an effort has recently been made to supply the void to be occasioned by the withdrawal of the United States Bank bills, though he was glad to say it had not been adopted. He believed there was no power on earth which could prevent this paper system, if the State banking system continued to prevail. He voted last year for the bill reducing the standard of gold, but not in reference to its preventing excessive issues of paper; for, if you have a twenty dollar bill, you would have a right to claim gold for it to the amount of the nominal value of the gold, whether the standard had been one in sixteen, or one in thirty-two. The truth was, that paper, being the cheaper currency, would always expel the dearer currency, do what you will.

Mr. BENTON said that, with regard to the inquiry which had been made of him by the honorable gentleman from Virginia, it addressed itself to a subject upon which he could not be supposed to have been indifferent. For some years he had turned his attention to the subject of currency, and he had looked at the difficulty suggested, as the gentleman did. He looked to the cooperation of the State Governments as highly necessary to the attainment of the great object, but not as the only means. He looked to the action of the State Governments as the most ready means of checking this most inordinate paper system. But if a man would cast his eye over the United States, and look at the great advances which had been made in public sentiment in this particular, he would see that there was hardly a State in which movements had not been made against the paper system: and, Mr. B. said, in his State there was not now a single bank; the Legislature of the State had lately refused to charter one; and the Governor said, if one were chartered, he would use his veto power upon it. So wholesome a state of things in the public mind would tend to get rid of the paper system. But this was not the only mode of getting a metallic currency for common purposes. There was one measure to restore a specie currency, for the origin of which he would have to go back to the Congress of 1789, when the revenues of the Government were required to be collected in gold and silver; he placed great reliance on the action of the States, and upon returning to the system of '89. But there was another remedy in the hands of Congress, which could and would be effectual. As to the cheap currency, it was cheap to those who issued it, but dear to those who used it.

Mr. LEIGH said he used the expression in that sense. He took it to be an axiom in political economy, that the two currencies could not exist together, because the one was cheap and the other dear, and therefore the one would necessarily expel the other. The gentleman from Missouri depends upon the action and wisdom of the States to correct the evil; but he does not depend upon the action of any one State to effect it. If there were no banks in Missouri now, Mr. L. ventured to say that if her neighbors, Illinois, Indiana, and Kentucky, did not restrain and regulate their paper system, she would be driven to establish her own banks in self defence. He wished to impress it on those who heard him, and, if possible, on the whole nation, that there must be a combined effort of all the State Governments to produce a restoration to a hard-money system.

Mr. TALLMADGE remarked, with respect to the amendment, that if the holder of a warrant requires his money in gold or silver, he has a right to it, and therefore there is no necessity for making a formal enactment of what is now the law.

The amendment was agreed to.

Mr. WEBSTER moved to amend the bill by adding a section, requiring that each of the deposite banks shall retain within its vaults gold and silver, which, with the balances due to them from specie-paying banks, shall amount, in the whole, to one-fifth of the whole amount of its notes and responsibilities.

Mr. BENTON wished one-fourth to be substituted for one-fifth, to which Mr. WEBSTER assented.

MR. POINDEXTER.

While this amendment was pending, Mr. SMITH entered the Senate chamber with a report from the special committee; when, on motion of Mr. CLAYTON, the proceedings on the deposite bill were suspended, and

Mr. SMITH, from the special committee to whom the letter of the honorable GEORGE POINDEXTER was referred, stated that the committee had concluded their labors, so far as regards the taking of testimony, but that

as the evidence was voluminous, and would require much time to copy, and as it was understood that the Senator had refrained from taking his seat until the examination should have been closed, he was instructed by the committee to report, that not a shade of suspicion rested on the honorable GEORGE POINDEXTER, in relation to that charge; and in this report all the members of the committee concurred. As soon as possible a more full report would be made.

The report was received by a simultaneous burst of applause from the galleries.

Mr. POINDEXTER resumed his seat.

THE DEPOSITE BILL

Was then again taken up.

Mr. EWING, Mr. SHEPLEY, Mr. BUCHANAN, and Mr. KNIGHT, made some remarks on the bill; and, on motion of Mr. WEBSTER, the yeas and nays were ordered on the motion to insert [in the blank] one-fourth. The question was then taken and decided as follows:

YEAS—Messrs. Benton, Bibb, Brown, Calhoun, Clayton, Ewing, Goldsborough, Hendricks, McKean, Poindexter, Porter, Robbins, Smith, Southard, Tipton, Tomlinson, White—17.

NAYS—Messrs. Black, Buchanan, Cuthbert, Frelinghuysen, Hill, Kane, Kent, King of Alabama, Knight, Leigh, Linn, Prentiss, Preston, Robinson, Ruggles, Shepley, Tallmadge, Waggaman, Webster—19.

The blank was then filled with one-fifth.

Mr. TALLMADGE moved an amendment, so as to have it read that the banks should have this amount of specie on hand when the monthly returns were made.

After a few remarks from Mr. EWING and Mr. WEBSTER, the amendment was negatived.

The amendment, as amended, was then agreed to.

Mr. TALLMADGE moved to amend, by introducing a provision into the bill to enable the Secretary of the Treasury to select an additional bank of deposite in any place where such additional bank or banks shall be necessary.

After some remarks from Mr. TALLMADGE and Mr. CALHOUN, the amendment was negatived.

The bill was reported to the Senate as amended, and the amendments (with the exception of the one regarding the amount of specie on hand) were concurred in.

On the amendment requiring that one-fifth of the funds of the bank should be retained by the bank, Mr. SHEPLEY asked the yeas and nays; which were ordered.

The question was then taken by yeas and nays, and decided as follows:

YEAS—Messrs. Benton, Bibb, Black, Buchanan, Calhoun, Clayton, Cuthbert, Ewing, Goldsborough, Hendricks, King of Alabama, Knight, Leigh, Linn, McKean, Mangum, Poindexter, Porter, Prentiss, Preston, Robbins, Robinson, Southard, Tomlinson, Waggaman, Webster, White—27.

NAYS—Messrs. Hill, Ruggles, Shepley, Tallmadge, Tipton, Wright—6.

Mr. CALHOUN asked for the yeas and nays on the question of engrossment; and they were ordered.

Mr. BUCHANAN said he intended to vote against the engrossment of this bill; and, that there might be no misconstruction of his reasons for this determination, he would state distinctly the sole cause why he could not give it his support.

The bill, in his opinion, had been greatly improved by the amendments which had been adopted. He was opposed to investing the Treasury Department with any discretion in regard to the deposite banks which was not absolutely necessary. Their duties should be, as far as possible, distinctly defined by law. This we owed not only to the Department itself, but to the country. The amendments had, in several important particulars, accomplished this purpose; they had, in a great degree, supplied the defects in the original bill.

Why, then, it might be asked, should he vote against it? His answer was, simply, because it required these banks to pay two per cent. interest on the deposites. Now it might be, and probably was true, that the banks in the Middle and Eastern States would be able to bear this burden. But what was the case in the Southwestern States? In that portion of the Union, the Government received large sums of money which must be deposited in their local banks. There was a constant drain upon these banks to supply the funds necessary to be expended by the Government in the middle and eastern cities. This caused the rate of exchange to be always against New Orleans, and that portion of the Union. Under this bill it was made the duty of the deposite banks to transfer the funds of the Government to any point where it became necessary to expend them. This duty they ought to perform. Mr. B. felt confident, however, both from the nature of the business and the information he had received from gentlemen of the South and the West, that their banks would not be able to bear the charge of transferring these funds, and also pay interest upon the deposites at the rate of two per cent. The inevitable consequence would be, that the Government could not, in that portion of the Union, get sound and solvent banks to accept the deposites upon the terms prescribed by this bill. The Treasury Department would thus be embarrassed in its operations, and heavy eventual losses might be sustained by the United States. Surely, said Mr. B., if two per cent. interest on the deposites be enough to demand from the banks at New York or Boston, it is too much to exact from those at New Orleans. There is no equality, there is no justice, in subjecting them to the same charge. Whilst the one class of banks must be constantly transmitting funds, the other are constantly receiving them. For this reason, and this alone, he should be compelled to vote against the bill.

Mr. PRESTON said he would vote for the bill, but he did so with great reluctance, because it was in some sort a justification of the measures of the Executive, in placing the money where it now was, when he believed that act to be wholly illegal and unconstitutional. He voted for it, therefore, under a kind of duresse.

Mr. BENTON stated several reasons which rendered it extremely unpleasant to him to vote for the bill.

Mr. TALLMADGE said he would vote against the bill, not because he was under duresse, for he believed the acts of the Executive alluded to by the honorable gentleman were perfectly legal and constitutional. But he voted against it, because there were provisions in the bill of so extraordinary a character, without consuming time by going into detail, that he could not vote for it.

A discursive debate, of some length, then ensued between Messrs. CUTHBERT, PRESTON, and CALHOUN, when the question was taken, and the bill ordered to be engrossed by the following vote:

YEAS—Messrs. Benton, Black, Calhoun, Cuthbert, Ewing, Goldsborough, King of Georgia, Knight, Leigh, Linn, Mangum, Poindexter, Porter, Prentiss, Preston, Robinson, Southard, Tomlinson, Webster, White—20.

NAYS—Messrs. Bibb, Brown, Buchanan, Hendricks, Hill, Kane, King of Alabama, Morris, Ruggles, Shepley, Tallmadge, Tipton—12.

The Senate adjourned.

FRIDAY, FEB. 27.

OHIO RESOLUTIONS.

Mr. EWING rose and said that, at the last session, his colleague [Mr. MORRIS] presented to the Senate certain

resolutions, adopted by the Legislature of the State of Ohio, against the recharter of the United States Bank, sustaining the course of the administration, and opposing the passage of the bill to appropriate, for a limited time, the proceeds of the public lands. These resolutions were read, laid on the table, and ordered to be printed. He had now the duty to perform of presenting certain resolutions, recently adopted in the Legislature of Ohio, rescinding the resolutions presented at the last session. He moved that these resolutions also be read, laid on the table, and ordered to be printed.

The motion was agreed to.

EXPURGATION OF THE JOURNAL.

The resolution, offered some time since by Mr. BENTON, to expunge from the journal of the Senate the resolutions of the last session on the subject of the encroachment of the Executive, was taken up for consideration.

The resolution was read by the Secretary, in the following words:

"*Resolved*, That the resolution adopted by the Senate on the 28th day of March, in the year 1834, in the following words, '*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both,' be, and the same hereby is, ordered to be expunged from the journals of the Senate; because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification; and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer; and at a time and under circumstances to endanger the political rights, and to injure the pecuniary interests of the people of the United States."

Mr. BENTON then rose and addressed the Senate in support of his motion. He said that the resolution which he had offered, though resolved upon, as he had heretofore stated, without consultation with any person, was not resolved upon without great deliberation in his own mind. The criminating resolution, which it was his object to expunge, was presented to the Senate, December 26th, 1833. The Senator from Kentucky who introduced it [Mr. CLAY] commenced a discussion of it on that day, which was continued through the months of January and February, and to the end, nearly, of the month of March. The vote was taken upon the 28th of March; and about a fortnight thereafter he announced to the Senate his intention to commence a series of motions for expunging the resolution from the journal. Here, then, were nearly four months for consideration; for the decision was expected; and he had very anxiously considered, during that period, all the difficulties, and all the proprieties, of the step which he meditated. Was the intended motion to clear the journal of the resolution right in itself? The convictions of his judgment told him that it was. Was expurgation the proper mode? Yes; he was thoroughly satisfied that that was the proper mode of proceeding in this case. For the criminating resolution which he wished to get rid of combined all the characteristics of a case which required erasure, obliteration, blotting out; for it was a case, as he believed, of the exercise of power without authority, without even jurisdiction; illegal, irregular, and unjust. Other modes of annulling the resolution, as rescinding, reversing, repealing, could not be proper in such a case; for they would imply rightful jurisdiction, a lawful authority, a legal action, though an erroneous judgment. All that he denied. He denied the authority of the Senate to pass such a resolution at all; and he affirmed that it was unjust, and contrary to the truth, as well as contrary to law. This being his view of the resolution, he held that the true and proper course, the parliamentary course of proceeding in such a case, was to expunge it.

But, said Mr. B., it is objected that the Senate has no right to expunge any thing from its journal; that it is required by the constitution to keep a journal; and, being so required, could not destroy any part of it. This, said Mr. B., is sticking in the bark, and in the thinnest bark in which a shot, even the smallest, was ever lodged. Various are the meanings of the word keep, used as a verb. To keep a journal is to write down, daily, the history of what you do. For the Senate to keep a journal is to cause to be written down, every day, the account of its proceedings; and, having done that, the constitutional injunction is satisfied. The constitution was satisfied by entering this criminating resolution on the journal; it will be equally satisfied by entering the expunging resolution on the same journal. In each case the Senate keeps a journal of its proceedings.

It is objected, also, that we have no right to destroy a part of the journal; and that to expunge is to destroy and to prevent the expunged part from being known in future. Not so the fact, said Mr. B. The matter expunged is not destroyed. It is incorporated in the expunging resolution, and lives as long as that lives; the only effect of the expurgation being to express, in the most emphatic manner, the opinion that such matter ought never to have been put in the journal.

Mr. B. said he would support these positions by authority, the authority of eminent examples; and would cite two cases, out of a multitude that might be adduced, to show that expunging was the proper course, the parliamentary course, in such a case as the one now before the Senate, and that the expunged matter was incorporated and preserved in the expunging resolution.

Mr. B. then read, from a volume of British Parliamentary History, the celebrated case of the Middlesex election, in which the resolution to expel the famous John Wilkes was expunged from the journal, but preserved in the expurgatory resolution, so as to be just as well read now as if it had never been blotted out from the journals of the British House of Commons. The resolution ran in these words: "That the resolution of the House of the 17th February, 1769, 'that John Wilkes, Esq., having been, in this session of Parliament, expelled this House, was and is incapable of being elected a member to serve in the present Parliament,' be expunged from the journals of this House, as being subversive of the rights of the whole body of electors of this kingdom." Such, said Mr. B., were the terms of the expunging resolution in the case of the Middlesex election, as it was annually introduced from 1769 to 1782, when it was finally passed by a vote of near three to one, and the clause ordered to be expunged was blotted out of the journal, and obliterated, by the clerk at the table, in the presence of the whole House, which remained silent, and all business suspended until the obliteration was complete. Yet the history of the case is not lost. Though blotted out of one part of the journal, it is saved in another; and there, at the distance of half a century, and some thousand miles from London, the whole case is read as fully as if no such operation had ever been performed upon it.

Having given a precedent from British parliamentary history, Mr. B. would give another from American history; not, indeed, from the Congress of the assembled States, but from one of the oldest and most respectable States of the Union: he spoke of Massachusetts, and of the resolution adopted in the Senate of that State during the late war, adverse to the celebration of our na-

tional victories, and which, some ten years afterwards, was expunged from the journals by a solemn vote of the Senate. He read the case, as follows:

"ERASURE OF THE JOURNAL.

"The resolution offered by the honorable Mr. Sprague, the 17th instant, in the words following:

"Whereas a certain resolve passed the Senate of this Commonwealth on the 15th day of June, A. D. 1813, relating to the capture of his Britannic Majesty's ship Peacock by the United States ship Hornet, commanded by the late brave and patriotic Captain James Lawrence, in the words following, viz:

"'*Resolved*, As the sense of the Senate of Massachusetts, that, in a war like the present, waged without justifiable cause, and prosecuted in a manner which indicates that conquest and ambition are its real motives, it is not becoming a moral and religious people to express any approbation of military or naval exploits which are not immediately connected with the defence of our seacoast and soil.'

"And whereas said resolution, adopted at a time of extraordinary political excitement, is predicated upon an erroneous estimate of the nature and character of the late war between the United States and Great Britain; and whereas it involves and asserts principles, unsound in policy, and dangerous and alarming in tendency; wherefore, that it may not hereafter be considered as expressing the deliberate sense of the Senate and people of this Commonwealth, at this time of uncommon political tranquillity:

"*Resolved*, That the aforesaid resolve of the fifteenth day of June, A. D. 1813, and the preamble thereof, be, and the same are hereby, expunged from the journals of the Senate.

"Yeas 22, nays 15."

Having produced these two precedents, Mr. B. said he would produce no more, though he had seen two instances of expunging matter from the journals, in State Legislatures, during the present winter, and in fact within a month past. He believed he could show great numbers of such precedents, and that in States whose constitution contained the same injunction with respect to keeping a journal which was found in the constitution of the United States. Mr. B. then referred to the terms of the resolution which he had submitted, and showed that it conformed to the precedents which he had produced from Massachusetts and Great Britain, both in using the word expunge, and in setting forth the clause to be expunged in the body of the expurgatory resolution. Mr. B. then said, the word which he had used was parliamentary; the motion which he had made was parliamentary. He had a right to use the word, and to make the motion, and to argue freely in support of it; and he had been astonished at the sensibility which had been shown, and the small-sized objections which had been taken to the course which he had adopted; objections of a kind which had never been heard of before on a similar occasion.

Mr. B. said there was another objection to his motion which he would notice, because it went to the substance of his proceeding; it was the objection brought forward some weeks ago at the presentation of the Alabama instructions to her Senators on the subject of this motion, and which took it up as a question of dignity to the Senate. It seemed to be considered as an attack upon the dignity of the Senate. Not so the fact. The motion is not intended to degrade the Senate; not intended to impair its dignity; nor will such be the effect, but the contrary. True dignity is best consulted in correcting errors, and in listening calmly to the voice which undertakes to show the existence of errors which require correction. True dignity requires this Senate to listen to this motion with calmness and patience, as the British House of Commons listened to the motions to expunge the famous Middlesex resolutions from their journals, and as the Massachusetts Senate listened to the motion to expunge from their journals the resolutions adopted in a season of great excitement, and which a season of calmness made all feel ought never to have been put there. This is what true dignity required from the Senate, and he trusted it was what the Senate would be found to exhibit.

A year ago, said Mr. B., the Senate tried President Jackson; now the Senate itself is on trial nominally before itself; but in reality before America, Europe, and posterity. We shall give our voices in our own case; we shall vote for or against this motion, and the entry upon the record will be according to the majority of voices. But that is not the end, but the beginning of our trial. We shall be judged by others; by the public, by the present age, and by all posterity! The proceedings of this case, and of this day, will not be limited to the present age; they will go down to posterity, and to the latest ages. President Jackson is not a character to be forgotten in history. His name is not to be confined to the dry catalogue and official nomenclature of mere American Presidents. Like the great Romans who attained the consulship, not by the paltry arts of electioneering, but through a series of illustrious deeds, his name will live, not for the offices he filled, but for the deeds which he performed. He is the first President that has ever received the condemnation of the Senate for the violation of the laws and the constitution, the first whose name is borne upon the journals of the American Senate for the violation of that constitution which he is sworn to observe, and of those laws which he is bound to see faithfully executed. Such a condemnation cannot escape the observation of history. It will be read, considered, judged! when the men of this day, and the passions of this hour, shall have passed to eternal repose.

Before he proceeded to the exposition of the case which he intended to make, he wished to avail himself of an argument which had been conclusive elsewhere, and which he trusted could not be without effect in this Senate. It was the argument of public opinion. In the case of the Middlesex election, it had been decisive with the British House of Commons; in the Massachusetts case, it had been decisive with the Senate of that State. In both these cases many gentlemen yielded their private opinions to public sentiment; and public sentiment having been well pronounced in the case now before the Senate, he had a right to look for the same deferential respect for it here which had been shown elsewhere.

Mr. B. then took up a volume of British Parliamentary History for the year 1782, the 22d volume, and read various passages from pages 1407, 1408, 1410, 1411, to show the stress which had been laid on the argument of public opinion in favor of expunging the Middlesex resolutions, and the deference which was paid to it by the House, and by members who had, until then, opposed the motion to expunge. He read first from Mr Wikes's opening speech, on renewing his annual motion for the fourteenth time, as follows:

"If the people of England, sir, have at any time explicitly and fully declared an opinion respecting a momentous constitutional question, it has been in regard to the Middlesex election in 1768." * * * * "Their voice was never heard in a more clear and distinct manner than on this point of the first magnitude for all the electors of the kingdom, and I trust will now be heard favorably."

He then read from Mr. Fox's speech. Mr. Fox had heretofore opposed the expunging resolution, but now yielded to it in obedience to the voice of the people. "He (Mr. Fox) had turned the question often in his

mind, and he was still of opinion that the resolution which gentlemen wanted to expunge was founded on proper principles." * * * * "Though he opposed the motion, he felt very little anxiety for the event of the question; for when he found the voice of the people was against the privilege, as he believed was the case at present, he would not preserve the privilege." * * * * "The people had associated, they had declared their sentiments to Parliament, and had taught Parliament to listen to the voice of their constituents."

Having read these passages, Mr. B. said they were the sentiments of an English whig of the old school. Mr. Fox was a whig of the old school. He acknowledged the right of the people to instruct their representatives. He yielded to the general voice himself, though not specially instructed; and he uses the remarkable expression which acknowledges the duty of Parliament to obey the will of the people. "They had declared their sentiments to Parliament, and had taught Parliament to listen to the voice of their constituents." This, said Mr. B., was fifty years ago; it was spoken by a member of Parliament, who, besides being the first debater of his age, was at that time Secretary at War. He acknowledged the duty of Parliament to obey the voice of the people. The son of a peer of the realm, and only not a peer himself because he was not the eldest son, he still acknowledged the great democratic principle which lies at the bottom of all representative Government. After this, after such an example, will American Senators be unwilling to obey the people? Will they require the people to teach Congress the lesson which Mr. Fox says the English people had taught their Parliament fifty years ago? The voice of the people of the United States had been heard on this subject. The elections declared it. The vote of many Legislatures declared it. From the confines of the Republic the voice of the people came rolling in--a swelling tide, rising as it flowed--and covering the Capitol with its mountain waves. Can that voice be disregarded? Will members of a republican Congress be less obedient to the voice of the people than were the representatives of a monarchical House of Commons?

Mr. B. then proceeded to the argument of his motion. He moved to expunge the resolution of March 28, 1834, from the journals of the Senate, because it was illegal and unjust; vague and indefinite; a criminal charge without specification; unwarranted by the constitution and laws; subversive of the rights of defence which belong to an accused and impeachable officer; of evil example, and adopted at a time and under circumstances to involve the political rights and the pecuniary interests of the people of the United States in peculiar danger and serious injury.

These reasons for expunging the criminating resolution from the journals, Mr. B. said, were not phrases collected and paraded for effect, or strung together for harmony of sound. They were each, separately and individually, substantive reasons; every word an allegation of fact, or of law. Without going fully into the argument now, he would make an exposition which would lay open his meaning, and enable each allegation, whether of law or of fact, to be fully understood, and replied to in the sense intended.

1. Illegal and unjust.--These were the first heads under which Mr. B. would develop his objections, he would say the outline of his objections, to the resolution proposed to be expunged. He held it to be illegal, because it contained a criminal charge, on which the President might be impeached, and for which he might be tried by the Senate. The resolution adopted by the Senate is precisely the first step taken in the House of Representatives to bring on an impeachment. It was a resolution offered by a member in his place, containing a criminal charge against an impeachable officer, debated for a hundred days, and then voted upon by the Senate, and the officer voted to be guilty. This is the precise mode of bringing on an impeachment in the House of Representatives; and, to prove it, Mr. B. would read from a work of approved authority on parliamentary practice; it was from Mr. Jefferson's Manual. Mr. B. then read from the Manual, under the section entitled impeachment, and from that head of the section entitled accusation. The writer was giving the British Parliamentary practice, to which our own constitution is conformable. "The Commons, as the grand inquest of the nation, became suitors for penal justice. The general course is to pass a resolution containing a criminal charge against the supposed delinquent, and then to direct some member to impeach him by oral accusation at the bar of the House of Lords, in the name of the Commons."

Repeating a clause of what he had read, Mr. B. said the general course is to pass a criminal charge against the supposed delinquent. This is exactly what the Senate did; and what did it do next? Nothing. And why nothing? Because there was nothing to be done by them but to execute the sentence they had passed; and that they could not do. Penal justice was the consequence of the resolution; and a judgment of penalties could not be attempted on such an irregular proceeding. The only kind of penal justice which the Senate could inflict was that of public opinion; it was to ostracise the President, and to expose him to public odium, as a violator of the laws and constitution of his country. Having shown the resolution to be illegal, Mr. B. would pronounce it to be unjust; for he affirmed the resolution to be untrue; he maintained that the President had violated no law, no part of the constitution, in dismissing Mr. Duane from the Treasury, appointing Mr. Taney, or causing the deposites to be removed; for these were the specifications contained in the original resolution, also in the second modification of the resolution, and intended in the third modification, when stripped of specifications, and reduced to a vague and general charge. It was in this shape of a general charge that the resolution passed. No new specifications were even suggested in debate. The alterations were made voluntarily, by the friends of the resolution, at the last moment of the debate, and just when the vote was to be taken. And why were the specifications then dropped? Because no majority could be found to agree in them? or because it was thought prudent to drop the name of the Bank of the United States? or for both these reasons together? Be that as it may, (said Mr. B.,) the condemnation of the President, and the support of the bank, were connected in the resolution, and will be indissolubly connected in the public mind; and the President was unjustly condemned in the same resolution that befriended and sustained the cause of the bank. He held the condemnation to be untrue in point of fact, and therefore unjust; for he maintained that there was no breach of the laws and constitution in any thing that President Jackson did, in removing Mr. Duane, or in appointing Mr. Taney, or in causing the deposites to be removed. There was no violation of law, or constitution, in any part of these proceedings; on the contrary, the whole country, and the Government itself, was redeemed from the dominion of a great and daring moneyed corporation, by the wisdom and energy of these very proceedings.

2. Vague and indefinite; a criminal charge without specification.—Such was the resolution, Mr. B. said, when it passed the Senate; but such it was not when first introduced, nor even when first altered; in its first and second forms it contained specifications, and these specifications identified the condemnation of the Presi-

dent with the defence of the bank; in its third form these specifications were omitted, and no others were substituted; the bank and the resolution stood disconnected on the record, but as much connected in fact as ever. The resolution was reduced to a vague and indefinite form on purpose, and in that circumstance acquired a new character of injustice to President Jackson. His accusers should have specified the law, and the clause in the constitution which was violated; they should have specified the acts which constituted the violation. This was due to the accused, that he might know on what points to defend himself; it was due to the public, that they might know on what points to hold the accusers to their responsibility, and to make them accountable for an unjust accusation. To sustain this position, Mr. B. had recourse to history and example, and produced the case of Mr. Giles's accusation of General Hamilton, then Secretary of the Treasury, in the year 1793. Mr. Giles, he said, proceeded in a manly, responsible manner. He specified the law and the alleged violations of the law, so that the friends of General Hamilton could see what to defend, and so as to make himself accountable for the accusation. He specified the law, which he believed to be violated, by its date and its title; and he specified the two instances in which he held that law to have been infringed. Mr. B. then read Mr. Giles's resolution, as follows:

"*Resolved*, That the Secretary of the Treasury has violated the law passed the 4th of August, 1790, making appropriation of certain moneys authorized to be borrowed by the same law, in the following particulars, to wit:

"1. By applying a certain portion of the principal borrowed to the payment of interest falling due upon that principal, which was not authorized by that or any other law.

"2. By drawing part of the same moneys into the United States, without the instructions of the President of the United States."

Mr. B. said he had a double object in quoting this resolution of Mr. Giles, which was intended to lay the foundation for an impeachment against General Hamilton; it was to show, first, the speciality with which these criminating resolutions should be drawn; next, to show the absence of any allegation of corrupt or wicked intention. The mere violation of law was charged as the offence, as it was in three of the articles of impeachment against Judge Chase; and thus the absence of an allegation of corrupt intention in the resolution adopted against President Jackson, was no argument against its impeachment character, especially as exhibited in its first and second form, with the criminal averment, "dangerous to the liberties of the people."

For the purpose of exposing the studied vagueness of the resolution as passed, detecting its connexion with the Bank of the United States, demonstrating its criminal character in twice retaining the criminal averment, "dangerous to the liberties of the people," and showing the progressive changes it had to undergo before it could conciliate a majority of the votes, Mr. B. would exhibit all three of the resolutions, and read them side by side of each other, as they appeared before the Senate in the first, second, and third forms which they were made to wear. They appeared first in their embryo, or primordial form; then they assumed their aurelia, or chrysalis state; in the third stage, they reached the ultimate perfection of their imperfect nature.

FIRST FORM.—*December* 26, 1833.

"*Resolved*, That by dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States, in deposite with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to make such removal, which has been done, the President has assumed the exercise of a power over the treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people."

SECOND FORM.—*March* 28, 1834.

"*Resolved*, That in taking upon himself the responsibility of removing the deposite of the public money from the Bank of the United States, the President of the United States has assumed the exercise of a power over the treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people."

THIRD FORM.—*March* 28, 1834.

"*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."

Having exhibited the original resolution, with its variations, Mr. B. would leave it to others to explain the reasons of such extraordinary metamorphoses. Whether to get rid of the bank association, or to get rid of the impeachment clause, or to conciliate the votes of all who were willing to condemn the President, but could not tell for what, it was not for him to say; but one thing he would venture to say, that the majority who agreed in passing a general resolution, containing a criminal charge against President Jackson, for violating the laws and the constitution, cannot now agree in naming the law or the clause in the constitution violated, or in specifying any act constituting such violation. And here Mr. B. paused, and offered to give way to the gentlemen of the opposition, if they would now undertake to specify any act which President Jackson had done in violation of law or constitution.

3. Unwarranted by the constitution and laws.—Mr. B. said this head explained itself. It needed no development to be understood by the Senate or the country. The President was condemned without the form of a trial; and therefore his condemnation was unwarranted by the constitution and laws.

4. Subversive of the rights of defence which belong to an accused and impeachable officer.—This head, also, (Mr. B. said,) explained itself. An accused person had a right to be heard before he was condemned; an impeachable officer could not be condemned unheard by the Senate, without subverting all the rights of defence which belong to him, and disqualifying the Senate to act as impartial judges in the event of his being regularly impeached for the same offence. In this case, the House of Representatives, if they confided in the Senate's condemnation, would send up an impeachment; that they had not done so, was proof that they had no confidence in the correctness of our decision.

5. Of evil example.—Nothing, said Mr. B., could be more unjust and illegal in itself, and therefore more evil in example, than to try people without a hearing, and condemn them without defence. In this case, such a trial and such a condemnation was aggravated by the refusal of the Senate, after their sentence was pronounced, to receive the defence of the President, and let it be printed for the inspection of posterity! So that, if this criminating resolution is not expunged, the singular spectacle will go down to posterity, of a condemnation, and a refusal to permit an answer from the condemned person standing recorded on the pages of the same Journal! Mr. B. said the Senate must look forward to the time--far ahead, perhaps, but a time which may come--when this body may be filled with disappointed compet-

itors, or personal enemies of the President, or of aspirants to the very office which he holds, and who may not scruple to undertake to cripple him by senatorial condemnations; to attaint him by convictions; to ostracise him by vote; and lest this should happen, and the present condemnation of President Jackson should become the precedent for such an odious proceeding, the evil example should be arrested, should be removed, by expunging the present sentence from the journals of the Senate. And here Mr. B. would avail himself of a voice which had often been heard in the two Houses of Congress, and always with respect and veneration. It was the voice of a wise man, an honest man, a good man, a patriot; one who knew no cause but the cause of his country; and who, a quarter of a century ago, foresaw and described the scenes of this day, and foretold the consequences which must have happened to any other President, under the circumstances in which President Jackson has been placed. He spoke of Nathaniel Macon, of North Carolina, and of the sentiments which he expressed in the year 1810, when called upon to give a vote in approbation of Mr. Madison's conduct in dismissing Mr. Jackson, the then British minister to the United States. He opposed the resolution of approbation, because the House had nothing to do with the President, in their legislative character, except the passing of laws, calling for information, or impeaching; and, looking into the evil consequences of undertaking to judge of the President's conduct, he foretold the exact predicament in which the Senate is now involved with respect to President Jackson. Mr. B. then read extracts from the speech of Mr. Macon on the occasion referred to:

"I am opposed to the resolution, not for the reasons which have been offered against it, nor for any which can be drawn from the documents before us, but because I am opposed to addressing the President of the United States upon any subject whatever. We have nothing to do with him in our legislative character, except the passing of laws, calling on him for information, or to impeach. On the day of the presidential election, we, in common with our fellow-citizens, are to pass on his conduct, and resolutions of this sort will have no weight on that day. It is on this ground solely that I am opposed to adopting any resolution whatever in relation to the executive conduct. If the national Legislature can pass resolutions to approve the conduct of the President, may they not also passresolutions to censure? And what would be the situation of the country, if we were now discussing a motion to request the President to recall Mr. Jackson, and again to endeavor to negotiate with him?"

"To me it appears, on a fair examination of his letters, that he was properly dismissed. But to the resolution: it will not be denied that either House might pass an approbatory resolution, without asking the concurrence of the other. Then, what would be the situation of the Government or the country, if one branch of the Legislature was of a different party from the Executive, and the branch agreeing with the President should pass an approbatory resolution? Might we not, from our knowledge of the intolerant spirit of party, expect the other branch to pass one to censure? But supposing both branches opposed to the Executive, and they pass joint resolutions against him, what then becomes of the Executive? Strong as it is, with all its patronage, it must fall. No Executive could maintain itself in this situation. This state of things would agitate every part of the nation, and shake the Union itself; and this Government is so organized that it is not impossible that all this may happen. This House is elected for two years, the Senate for six, and the President for four. If it ever should happen, I fear you would not only have no President, but no federal Government. This would be a very different case from that which took place when Congress repealed a law, because it was opposed by part of the nation. That opposition was used as an argument to shake the firmness of the national Legislature, and it succeeded. I have, since I had a seat in the House, heard a great deal about foreign influence; I have never believed much in it; but if events like these I have mentioned should ever take place, you may look for foreign influence."

6. At a time, and under circumstances, to involve the political rights and pecuniary interests of the people of the United States in serious injury and peculiar danger.—This head of his argument, Mr. B. said, would require a development and detail which he had not deemed it necessary at this time, considering what had been said by him at the last session, and what would now be said by others, to give to the other reasons which he had so briefly touched. But at this point he approached new ground; he entered a new field; he saw an extended horizon of argument and fact expand before him, and it became necessary for him to expand with his subject. The condemnation of the President is indissolubly connected with the cause of the bank! The first form of the resolution exhibited the connexion; the second form did also; every speech did the same; for every speech in condemnation of the President was in justification of the bank; every speech in justification of the President was in condemnation of the bank; and thus the two objects were identical and reciprocal. The attack of one was a defence of the other; the defence of one was the attack of the other. And thus it continued for the long protracted period of nearly one hundred days—from December 26th, 1833, to March 28th, 1834—when, for reasons not explained to the Senate, upon a private consultation among the friends of the resolution, the mover of it came forward to the Secretary's table, and voluntarily made the alterations which cut the connexion between the bank and the resolution! but it stood upon the record, by striking out every thing relative to the dismissal of Mr. Duane, the appointment of Mr. Taney, and the removal of the deposites. But the alteration was made in the record only. The connexion still subsisted in fact, now lives in memory, and shall live in history. Yes, sir, said Mr. B., addressing himself to the President of the Senate; yes, sir, the condemnation of the President was indissolubly connected with the cause of the bank, with the removal of the deposites, the renewal of the charter, the restoration of the deposites, the vindication of Mr. Duane, the rejection of Mr. Taney, the fate of elections, the overthrow of Jackson's administration, the fall of prices, the distress meetings, the distress memorials, the distress committees, the distress speeches, and all the long list of hapless measures which astonished, terrified, afflicted, and deeply injured, the country during the long and agonized protraction of the famous panic session. All these things are connected, said Mr. B., and it became his duty to place a part of the proof which established the connexion before the Senate and the people.

Mr. B, then took up the appendix to the report made by the Senate's Committee of Finance on the bank, commonly called Mr. Tyler's report, and read extracts from instructions sent to two-and-twenty branches of the bank, contemporaneously with the progress of the debate on the criminating resolutions; the object and effect of which, and their connexion with the debate in the Senate, would be quickly seen. Premising that the bank had despatched orders to the same branches in the month of August, and had curtailed $4,066,000, and again in the month of October to curtail $5,825,000, and to increase the rates of their exchange, and had expressly stated in a circular on the 17th of that month, that this

reduction would place the branches in a position of entire security, Mr. B. invoked attention to the shower of orders, and their dates, which he was about to read. He read passages from page 77 to 82, inclusive. They were all extracts of letters from the president of the bank in person, to the presidents of the branches; for Mr. B. said it must be remembered, as one of the peculiar features of the bank attack upon the country last winter, that the whole business of conducting this curtailment, and raising exchanges, and doing whatever it pleased with the commerce, currency, and business of the country, was withdrawn from the board of directors, and confided to one of those convenient committees of which the president is ex officio member and creator; and which, in this case, was expressly absolved from reporting to the board of directors! The letters, then, are all from Nicholas Biddle, president, and not from Samuel Jaudon, cashier, and are addressed direct to the presidents of the branch banks. Mr. B. read:

January 22, 1834.—"The present situation of the bank, and the new measures of hostility which are understood to be in contemplation, make it expedient to place the institution beyond the reach of all danger." It then directed that by the 1st of March the discount line shall be reduced to a sum named, being the branches' proportion of a curtailment of $3,220,000, to be effected in about two months, and raises exchange on New Orleans to not less than two per cent. discount, with a limitation to purchase, except on New Orleans and the north Atlantic cities. This letter is directed to the cashiers of the branches at Cincinnati, Lexington, Louisville, St. Louis, Nashville, and Natchez.

January 30, 1834.—"With a view to meet the coming crisis in the banking concerns of the country, and especially to provide against new measures of hostility understood to be in contemplation by the executive officers at Washington, a general reduction has been ordered at the several offices, and I have now to ask your particular attention to accomplish it." * * * "On the defeat of these measures to destroy the bank, depend, in our deliberate judgment, not merely the pecuniary interests, but the whole free institutions of our country; and our determination is, even by a temporary sacrifice of profit, to place the bank entirely beyond the reach of those who meditate its destruction." The letter then directs the local discounts to be brought down to one million five hundred thousand dollars, and the rate of exchange on western offices to be raised to not less than two and a half per cent. This letter is directed to the president at Charleston, South Carolina, and to no one else.

February 1, 1834.—"The state of the bank and the country, and the new measures of hostility understood to be in contemplation by the executive officers, make it expedient to place the institution above the reach of all contingencies; to this object every part of the establishment must co-operate; and I am accordingly directed to instruct you to put the business of your office on the following footing." This letter is directed to three offices, Buffalo, Utica, and Burlington, and directs them to keep their local discounts to a small sum, which is named, and places restrictions on the purchase of exchange.

January 27, 1834.—"The situation of the bank and the country, and the new measures of hostility which are understood to be in contemplation, make it proper to place the bank entirely beyond the reach of any contingency." This letter is directed to the president of the office at Baltimore, and prescribes a reduction of discounts by the 1st of March to $1,400,000, and to raise the rates of exchange from those fixed on the first of October preceding to not less than two and a half per cent. on the West; not less than two per cent. on New Orleans; and not less than one per cent. south of Washington city. The same letter, on the same day, was sent to three other offices; namely, Richmond, Norfolk, and Fayetteville, only varying in the amounts of the reduction, and in the time to make it, the 10th of April being fixed for the completion of the reduction.

January 24, 1834.—"The state of the bank and of the country, and the new measures of hostility against it which are understood to be in contemplation, make it proper to put the bank in a position entirely out of the reach of all contingencies; for this purpose I am directed to request that you will place the business of your office on the following footing." To reduce the discounts by the first of April to $3,500,000, and to abstain from purchasing bills of exchange, payable at places on the Mississippi, and its branches, including all the western offices. "The state of things here is very gloomy; and unless Congress takes some decided step to prevent the progress of the troubles, they may soon outgrow our control." * * * * "It is a moment of great interest, and exposed to sudden changes, in public affairs, which may induce the bank to conform its policy to them. Of these dangers, should any occur, you will have early advice." This letter directed to the president of the branch at New Orleans only.

January 24, 1834.—"The state of the bank and the country, and the new measures of hostility to the institution which it is understood are in contemplation, make it expedient to place the bank beyond the reach of all contingencies; I am therefore instructed," &c. To reduce discounts to a sum named by the 1st of March, to raise exchange to not less than two and a half per cent. on western offices; not less than two per cent. on New Orleans, and not less than one per cent. south of Washington city. The letter addressed to four branches, Portland, Providence, Portsmouth, and Hartford.

January 21, 1834.—"The present situation of the bank, and the measures of hostility to the institution which are understood to be in contemplation, render it expedient to provide for its entire safety against all contingencies," &c. Then directs a reduction of discounts to $4,000,000 by the 1st of April, and an increase of the rates of exchange to two and a half per cent. on the West, to two per cent. on New Orleans and Mobile, and to one per cent. south of Washington. The letter directed to the president of the branch at New York.

January 27, 1833.—"In the recent examination of the situation of the bank and the offices, it was determined that, in the present state of the country, and in consideration of the new measures of hostility contemplated by the executive officers of the United States at Washington, it was proper to place the institution beyond the reach of contingencies," &c. Then directs the discounts to be confined to their present moderate amount, and exchanges to be raised to not less than two and a half per cent. on the West, not less than two per cent. on New Orleans, and not less than one per cent. south of Washington city. This letter directed to the president at Boston only.

When Mr. B. had finished reading these extracts, he turned to the report made by the Senator from Virginia, who sat on his right, [Mr. TYLER,] where all that was said about these new measures of hostility, and the propriety of the bank's conduct in this third curtailment, and in this increase upon rates of exchange, was compressed into twenty lines, and the wisdom or necessity of them were left to be pronounced upon by the judgment of the Senate. Mr. B. would read those twenty lines of that report:

"The whole amount of reduction ordered by the above proceedings (curtailment ordered on 8th and 17th of October) was $5,825,906. The same table, No. 4, exhibits the fact, that on the 23d of January a further

reduction was ordered to the amount of $3,320,000. This was communicated to the offices in letters from the president, stating 'that the present situation of the bank, and the new measures of hostility which are understood to be in contemplation, make it expedient to place the institution beyond the reach of all danger; for this purpose, I am directed to instruct your office to conduct its business on the following footing:' (appendix, No. 9, copies of letters.) The offices of Cincinnati, Louisville, Lexington, St. Louis, Nashville, and Natchez, were further directed to confine themselves to ninety days' bills on Baltimore, and the cities north of it, of which they were allowed to purchase any amount their means would justify: and to bills on New Orleans, which they were to take only in payment of pre-existing debts to the bank and its offices; while the office at New Orleans was directed to abstain from drawing on the western offices, and to make its purchases mainly on the north Atlantic cities. The committee has thus given a full, and somewhat elaborate detail of the various measures resorted to by the bank, from the 13th of August, 1833; of their wisdom and necessity the Senate will best be able to pronounce a correct judgment."

This, Mr. B. said, was the meager and stinted manner in which the report treated a transaction which he would show to be the most cold-blooded, calculating, and diabolical, which the annals of any country on this side of Asia could exhibit.

[Mr. TYLER here said there were two pages on this subject to be found at another part of the report, and opened the report at the place for Mr. B.]

Mr. B. said the two pages contained but few allusions to this subject, and nothing to add to or vary what was contained in the twenty lines he had read. He looked upon it as a great omission in the report; the more so as the committee had been expressly commanded to report upon the curtailments and the conduct of the bank in the business of internal exchange. He had hoped to have had searching inquiries and detailed statements of facts on these vital points. He looked to the Senator from Virginia [Mr. TYLER] for these inquiries and statements. He wished him to show, by the manner in which he would drag to light, and expose to view, the vast crimes of the bank, that the Old Dominion was still the mother of the Gracchi; that the old lady was not yet forty-five; that she could breed sons! Sons to emulate the fame of the Scipios. But he was disappointed. The report was dumb, silent, speechless, upon the operations of the bank during its terrible campaign of panic and pressure upon the American people. And now he would pay one instalment of the speech which had been promised some time ago on the subject of this report; for there was part of that speech which was strictly applicable and appropriate to the head he was now discussing.

Mr. B. then addressed himself to the Senator from Virginia, who sat on his right, [Mr. TYLER,] and requested him to supply an omission in his report, and to inform what were those new measures of hostility alluded to in the two-and-twenty letters of instruction of the bank, and repeated in the report, and which were made the pretext for this third curtailment, and these new and extraordinary restrictions and impositions upon the purchase of bills of exchange.

[Mr. TYLER answered that it was the expected prohibition upon the receivability of the branch bank drafts in payment of the federal revenue.]

Mr. B. resumed: The Senator is right. These drafts are mentioned in one of the circular letters, and but one of them, as the new measure understood to be in contemplation, and which understanding had been made the pretext for scourging the country. He (Mr. B.) was incapable of a theatrical artifice—a stage trick—in a grave debate. He had no question but that the Senator could answer his question, and he knew that he had answered it truly; but he wanted his testimony, his evidence, against the bank; he wanted proof to tie the bank down to this answer, to this pretext, to this thin disguise for her conduct in scourging the country. The answer is now given; the proof is adduced; and the apprehended prohibition of the receivability of the branch drafts stands both as the pretext and the sole pretext for the pressure commenced in January, the doubling the rates of exchange, breaking up exchanges between the five western branch banks, and concentrating the collection of bills of exchange upon four great commercial cities.

Mr. B. then took six positions, which he enumerated, and undertook to demonstrate to be true. They were:

1. That it was untrue, in point of fact, that there were any new measures in contemplation, or action, to destroy the bank.

2. That it was untrue, in point of fact, that the President harbored hostile and revengeful designs against the existence of the bank.

3. That it was untrue, in point of fact, that there was any necessity for this third curtailment, which was ordered the last of January.

4. That there was no excuse, justification, or apology for the conduct of the bank in relation to domestic exchange, in doubling its rates, breaking it up between the five western branches, turning the collection of bills upon the principal commercial cities, and forbidding the branch at New Orleans to purchase bills on any part of the West.

5. That this curtailment and these exchange regulations in January were political and revolutionary, and connected themselves with the resolution in the Senate for the condemnation of President Jackson.

6. That the distress of the country was occasioned by the Bank of the United States and the Senate of the United States, and not by the removal of the deposites.

Having stated his positions, Mr. B. proceeded to demonstrate them.

1. As to the new measures to destroy the bank.—Mr. B. said there were no such measures. The one indicated, that of stopping the receipt of the branch bank drafts in payments to the United States, existed nowhere but in the two-and twenty letters of instruction of the president of the bank. There is not even an allegation that the measure existed; the language is "in contemplation"—"understood to be in contemplation;" and upon this flimsy pretext of an understanding of something in contemplation, and which something never took place, a set of ruthless orders are sent out to every quarter of the Union to make a pressure for money, and to embarrass the domestic exchanges of the Union. Three days would have brought an answer from Washington to Philadelphia—from the Treasury to the bank; and let it be known that there was no intention to stop the receipt of these drafts at that time. But it would seem that the bank did not recognise the legitimacy of Mr. Taney's appointment! and therefore would not condescend to correspond with him as Secretary of the Treasury! But time gave the answer, even if the bank would not inquire at the Treasury. Day after day, week after week, month after month passed off, and these redoubtable new measures never made their appearance. Why not then stop the curtailment, and restore the exchanges to their former footing? February, March, April, May, June, five months, one hundred and fifty days, all passed away; the new measures never came; and yet the pressure upon the country was kept up; the two-and-twenty orders were continued in force. What can be thought of an institution which, being armed by law with power over the moneyed system of the whole country, should proceed to exercise that power to distress that country

for money, upon an understanding that something was in contemplation, and never inquire if its understanding was correct, nor cease its operations, when each successive day, for one hundred and fifty days, proved to it that no such thing was in contemplation? At last, on the 27th of June, when the pressure is to be relaxed, it is done upon another ground; not upon the ground that the new measures had never taken effect, but because Congress was about to rise without having done any thing for the bank. Here is a clear confession that the allegation of new measures was a mere pretext; and that the motive was to operate upon Congress, and force a restoration of the deposites, and a renewal of the charter.

Mr. B. said he knew all about these drafts. The President always condemned their legality, and was for stopping the receipt of them. Mr. Taney, when Attorney General, condemned them in 1831. Mr. B. had applied to Mr. McLane, in 1832, to stop them; but he came to no decision. He applied to Mr. Duane, by letter, as soon as he came into the Treasury, but got no answer. He applied to Mr. Taney as soon as he arrived at Washington in the fall of 1833, and Mr. Taney decided that he would not stop them until the moneyed concerns of the country had recovered their tranquillity and prosperity, lest the bank should make it the pretext of new attempts to distress the country; and thus the very thing which Mr. Taney refused to do, lest it should be made a pretext for oppression, was falsely converted into a pretext to do what he was determined they should have no pretext for doing.

But Mr. B. took higher ground still; it was this: that, even if the receipt for the drafts had been stopped in January or February, there would have been no necessity on that account for curtailing debts and embarrassing exchanges. This ground he sustained by showing—1st. That the bank had at that time two millions of dollars in Europe, lying idle, as a fund to draw bills of exchange upon, and the mere sale of bills on this sum would have met every demand which the rejection of the drafts could have thrown upon it. 2d. That it sent the money it raised by this curtailment to Europe, to the amount of three and a half millions, and thereby showed that it was not collected to meet any demand at home. 3d. That the bank had at that time (January, 1834) the sum of $4,230,509 of public money in hand, and therefore had United States money enough in possession to balance any injury from rejection of drafts. 4th. That the bank had notes enough on hand to supply the place of all the drafts, even if they were all driven in. 5th. That it had stopped the receipt of these branch drafts itself at the branches, except each for its own in November, 1833, and was compelled to resume their receipt by the energetic and just conduct of Mr. Taney, in giving transfer drafts to be used against the branches which would not honor the notes and drafts of the other branches. Here Mr. B. turned upon Mr. Tyler's report, and severely arraigned it for alleging that the bank always honored its paper at every point, and furnishing a supply of negative testimony to prove that assertion, when there was a large mass of positive testimony, the disinterested evidence of numerous respectable persons, to prove the contrary, and which the committee had not noticed.

Finally, Mr. B. had recourse to Mr. Biddle's own testimony to annihilate his (Mr. Biddle's) affected alarm for the destruction of the bank, and the injury to the country from the repulse of these famous branch drafts from revenue payments. It was in the letter of Mr. Biddle to Mr. Woodbury in the fall of 1834, when the receipt of these drafts was actually stopped, and in the order which was issued to the branches to continue to issue them as usual. Mr. B. read a passage from this letter, to show that the receipt of these drafts was always a mere Treasury arrangement, in which the bank felt no interest; that the refusal to receive them was an object at all times of perfect indifference to the bank, and would not have been even noticed by it, if Mr. Woodbury had not sent him a copy of his circular.

The following is the passage read:

"As the receipt of these drafts by the Treasury was an arrangement exclusively its own, in which the bank felt no interest, the refusal to receive them hereafter is an object of equal indifference; nor would it have been in any manner noticed, but that as you have transmitted to me a copy of the circular, the silence of the bank might be misconstrued into an acquiescence in the contents of that paper. Without meaning, therefore, in the remotest degree, to question the expediency of the measure, it is deemed proper to suggest," &c. * * * * * * "The phraseology (of the circular rejecting the drafts) appears to convey the impression that the bank had sought to obtain the receipt of these drafts by certain assurances to the Treasury. It is difficult to imagine any thing more groundless. The bank never consulted the Treasury on the subject, nor did it ever make assurances of any kind to the Treasury. The bank on its own responsibility issued these drafts. The Secretary of the Treasury subsequently asked for information about them. It was given, not merely without an assurance, but without the expression of a wish of any kind. On the contrary, the letter giving the explanation concluded with these words: 'Whether, under these circumstances, it is expedient to receive them, is a question for the exclusive consideration of the Department.'"

Mr. B. invoked the attention of the Senate upon the fatal contradictions which this letter of November, and these instructions of January, 1834, exhibit. In January, the mere understanding of a design in contemplation to exclude these drafts from revenue payments, is a danger of such alarming magnitude, an invasion of the rights of the bank in such a flagrant manner, a proof of such vindictive determination to prostrate, sacrifice, and ruin the institution, that the entire continent must be laid under contribution to raise money to enable the institution to stand the shock! In November of the same year, when the order for the rejection actually comes, then the same measure is declared to be one of the utmost indifference to the bank; in which it never felt any interest; which the Treasury adopted for its own convenience; which was always under the exclusive control of the Treasury; about which the bank had never expressed a wish; of which it would have taken no notice if the Secretary had not sent them a circular; and the expediency of which it was not intended to question in the remotest degree! Having pointed out these fatal contradictions, Mr. B. said it was a case in which the emphatic ejaculation might well be repeated: Oh! that mine enemy would write a book!

To put the seal of the bank's contempt on the order prohibiting the receipt of these drafts, to show its disregard of law, and its ability to sustain its drafts upon its own resources, and without the advantage of Government receivability, Mr. B. read the order which the president of the bank addressed to all the branches on the receipt of the circular which gave him information of the rejection of these drafts. It was in these words: "This will make no alteration whatever in your practice, with regard to issuing or paying these drafts, which you will continue as heretofore." What a pity, said Mr. B., that the president of the bank could not have thought of issuing such an order as this in January, instead of sending forth the mandate for curtailing debts, embarrassing exchange, levying three millions and a half, alarming the country with the cry of danger, and

exhibiting President Jackson as a vindictive tyrant, intent upon the ruin of the bank!

2. The hostility of the President to the bank.—This assertion, said Mr. B., so incontinently reiterated by the president of the bank, is taken up and repeated by our Finance Committee, to whose report he was now paying an instalment of those respects which he had promised them. This assertion, so far as the bank and the committee are concerned in making it, is an assertion without evidence, and, so far as the facts are concerned, is an assertion against evidence. If there is any evidence of the bank or the committee to support this assertion, in the forty pages of the report, or the three hundred pages of the appendix, the four members of the Finance Committee can produce it when they come to reply. That there was evidence to contradict it, he was now ready to show. This evidence consisted in four or five public and prominent facts, which he would now mention, and in other circumstances, which he would show hereafter. The first was the fact which he mentioned when this report was first read on the 18th of December last, namely, that President Jackson had nominated Mr. Biddle at the head of the Government directors, and thereby indicated him for the presidency of the bank, for three successive years after this hostility was supposed to have commenced. The second was, that the President had never ordered a *scire facias* to issue against the bank to vacate its charter, which he has the right, under the twenty-third section of the charter, to do, whenever he believed the charter to be violated. The third, that, during many years, he has never required his Secretaries of the Treasury to stop the governmental receipt of the branch bank drafts, although his own mind upon their illegality had been made up for several years past. The fourth, that after all the clamor—all the invocations upon heaven and earth against the tyranny of removing the deposites—those deposites have never happened to be quite entirely removed! An average of near four millions of dollars of public money has remained in the hands of the bank for each month, from the 1st of October, 1833, to the 1st of January, 1835, inclusively! embracing the entire period from the time the order was to take effect against depositing in the Bank of the United States down to the commencement of the present year! So far are the deposites from being quite entirely removed, as the public are led to believe, that, at the distance of fifteen months from the time the order for the removal began to take effect, there remained in the hands of the bank the large sum of three millions eight hundred and seventy-eight thousand nine hundred and fifty-one dollars and ninety-seven cents, according to her own showing in her monthly statements. That President Jackson is, and always has been, opposed to the existence of the bank, is a fact as true as it is honorable to him; that he is hostile to it, in the vindictive and revengeful sense of the phrase, is an assertion, Mr. B. would take the liberty to repeat, without evidence, so far as he could see into the proofs of the committee, and against evidence, to the full extent of all the testimony within his view. Far from indulging in revengeful resentment against the bank, he has been patient, indulgent, and forbearing towards it, to a degree hardly compatible with his duty to his country, and with his constitutional supervision over the faithful execution of the laws; to a degree which has drawn upon him, as a deduction from his own conduct, an argument in favor of the legality of this very branch bank currency, on the part of this very committee, as may be seen in their report. Again, the very circumstance on which this charge of hostility rests in the two-and-twenty letters of Mr. Biddle, proves it to be untrue: for the stoppage of the drafts, understood to be in contemplation, was not in contemplation, and did not take place until the pecuniary concerns of the country were tranquil and prosperous; and when it did thus take place, the president of the bank declared it to have been always the exclusive right of the Government to do it, in which the bank had no interest, and for which it cared nothing. No, said Mr. B., the President has opposed the recharter of the bank; he has not attacked its present charter; he has opposed its future, not its present existence; and those who characterize this opposition to a future charter as attacking the bank, and destroying the bank, must admit that they advocate the hereditary right of the bank to a new charter after the old one is out; and that they deny to a public man the right of opposing that hereditary claim.

3. That there was no necessity for this third curtailment ordered in January.—Mr. B. said, to have a full conception of the truth of this position, it was proper to recollect that the bank made its first curtailment in August, when the appointment of an agent to arrange with the deposite banks announced the fact that the Bank of the United States was soon to cease to be the depository of public moneys. The reduction under that first curtailment was $4,066,000. The second was in October, and under that order for curtailment the reduction was $5,825,000. The whole reduction, then, consequent upon the expected and actual removal of deposites, was $9,891,000. At the same time the whole amount of deposites on the first day of October, the day for the removal, or rather for the cessation to deposite in the United States Bank to take effect, was $9,868,435; and on the first day of February, 1834, when the third curtailment was ordered, there were still $3,066,561 of these deposites on hand, and have remained on hand to near that amount ever since; so that the bank in the two first curtailments, accomplished between August and January, had actually curtailed to the whole amount, and to the exact amount, upon precise calculation, of the amount of deposites on hand on the first of October; and still had, on the first of January, a fraction over three millions of the deposites in its possession. This simple statement of sums and dates shows that there was no necessity for ordering a further reduction of $3,320,000 in January, as the bank had already curtailed to the whole amount of the deposites, and $22,500 over. Nor did the bank put the third curtailment upon that ground, but upon the new measures in contemplation; thus leaving her advocates every where still to attribute the pressure created by the third curtailment to the old cause of the removal of the deposites. This simple statement of facts is sufficient to show that this third curtailment was unnecessary. What confirms that view, is that the bank remitted to Europe, as fast as it was collected, the whole amount of the curtailment, and $105,000 over, there to lie idle until she could raise the foreign exchange to eight per cent. above par, which she had sunk to five per cent. below par, and thus make two sets of profits out of one operation in distressing and pressing the country.

4. No excuse for doubling the rates of exchange, breaking up the exchange business in the West, forbidding the branch at New Orleans to purchase a single bill on the West, and concentrating the collection of exchange on the four great commercial cities.—For this, Mr. B. said, no apology, no excuse, no justification, was offered by the bank. The act stood unjustified and unjustifiable. The bank itself has shrunk from the attempt to justify it; our committee, in that report of which the bank proclaims itself to be so proud, gives no opinion in its brief notice of a few lines upon this transaction, but leaves it to the Senate to pronounce upon its wisdom and necessity! The committee, Mr. B. said, had failed in their duty to their country by the manner in which they had veiled this affair of the exchanges in a few lines, and then blinked the question of

its enormity, by referring it to the judgment of the Senate. He made the same remark upon the contemporaneous measure of the third curtailment; and called on the author of the report [Mr. TYLER] to defend his report, and to defend the conduct of the bank now, if he could; and requested him to receive all this part of his speech as a further instalment paid of what was due to that report on the bank.

5. That the curtailment and exchange regulations of January were political and revolutionary, and connect themselves with the contemporaneous proceedings of the Senate for the condemnation of the President.—That this curtailment, and these regulations, were wanton and wicked, was a proposition, Mr. B. said, which resulted as a logical conclusion from what had been already shown, namely, that they were causeless and unnecessary, and done upon pretexts which have been demonstrated to be false. That they were political and revolutionary, and connected with the proceedings in the Senate for the condemnation of the President, he would now prove. In the exhibition of this proof, the first thing to be looked to is the chronology of the events—the time at which the bank made this third curtailment, and sent forth these exchange regulations--and the time at which the Senate carried on the proceeding against the President. Viewed under this aspect, the two movements are not only connected, but identical and inseparable. The time for the condemnation of the President covers the period from the 25th of December, 1833, to the 28th of March, 1834; the bank movement is included in the same period; the orders for the pressure were issued from the 21st of January to the 1st of February, and were to accomplish their effect in the month of March, and by the 1st of April, except in one place, where, for a reason which will be shown at a proper time, the accomplishment of the effect was protracted till the 10th day of April. These, Mr. B. said, were the dates of issuing the orders, and accomplishing their effect; the date of the adoption of the resolution in the bank for this movement is not given in the report, but must have been, in the nature of things, anterior to the issue of the orders; it must have been some days before the issue of the orders; and was, in all probability, a few days after the commencement of the movement in the Senate against the President. The next point of connexion, Mr. B. said, was in the subject-matter; and here it was necessary to recur to the original form, and to the second form, of the resolution for the condemnation of the President. In the first, or primordial form, the resolution was expressly connected with the cause of the bank. It was, for dismissing Mr. Duane because he would not remove the deposites, and appointing Mr. Taney because he would remove them. In the second form of the resolution--that form which naturalists would call its aurelia, or chrysalis state--the phraseology of the connexion was varied, but still the connexion was retained and expressed. The names of Mr. Duane and Mr. Taney were dropped; and the removal of the deposites upon his own responsibility, was the alleged offence of the President. In its third and ultimate transformation, all allusion to the bank was dropped, and the vague term "revenue" was substituted; but it was a substitution of phrase only, without any alteration of sense or meaning. The resolution is the same under all its phases. It is still the bank, and Mr. Taney, and Mr. Duane, and the removal of the deposites, which are the things to be understood, though no longer prudent to express. All these substantial objects are veiled, and substituted by the empty phrase "revenue," which might signify the force bill in South Carolina, and the bank question in Philadelphia! The vagueness of the expression left every gentleman to fight upon his own hook, and to hang his vote upon any mental reservation which could be found in his own mind! and Mr. B. would go before the intelligence of any rational man with the declaration that the connexion between the condemnation of the President and the cause of the bank was doubly proved; first by the words of the resolution, and next by the omission of those words. The next point of connexion, Mr. B. said, was detected in the times, varied to suit each State, at which the pressure under the curtailment was to reach its maximum; and the manner in which the restrictions upon the sale and purchase of bills of exchange was made to fall exclusively and heavily upon the principal commercial cities, at the moment when most deeply engaged in the purchase and shipment of produce. Thus, in New York, where the great charter elections were to take place during the first week in April, the curtailment was to reach its maximum pressure on the first day of that month. In Virginia, where the elections are continued throughout the whole month of April, the pressure was not to reach its climax until the tenth day of that month. In Connecticut, where the elections occurred about the first of April, the pressure was to have its last turn of the screw in the month of March. And in these three instances, the only ones in which the elections were depending, the political bearing of the pressure was clear and undeniable. The sympathy in the Senate in the results of these political calculations, was displayed in the exultation which broke out on receiving the news of the elections in Virginia, New York, and Connecticut—an exultation which broke out into the most extravagant rejoicings over the supposed downfall of the administration. The careful calculation to make the pressure and the exchange regulations fall upon the commercial cities at the moment to injure commerce most, was also visible in the times fixed for each. Thus, in all the western cities, Cincinnati, Louisville, Lexington, Nashville, Pittsburg, St. Louis, the pressure was to reach its maximum by the first day of March; the shipments of western produce to New Orleans being mostly over by that time; but in New Orleans the pressure was to be continued till the first of April, because the shipping season is protracted there till that month, and thus the produce which left the upper States under the depression of the pressure, was to meet the same pressure upon its arrival in New Orleans; and thus enable the friends of the bank to read their ruined prices of western produce on the floor of this Senate. In Baltimore, the first of March was fixed, which would cover the active business season there. So much, said Mr. B., for the pressure by curtailment; now for the pressure by bills of exchange, and he would take the case of New Orleans first. All the branches in the West, and every where else in the Union, were authorized to purchase bills of exchange at short dates, not exceeding ninety days, on that emporium of the West; so as to increase the demand for money there; at the same time the branch in New Orleans was forbid to purchase a single bill in any part of the valley of the Mississippi. This prohibition was for two purposes; first, to break up exchange; and next, to make money scarce in New Orleans, as, in default of bills of exchange, silver would be shipped, and the shipping of silver would make a pressure upon all the local banks. To help out this operation, Mr. B. said, it must be well and continually remembered that the Bank of the United States itself abducted about one million and a quarter of hard dollars from New Orleans during the period of the pressure there; thus proving that all her affected necessity for curtailment was a false and wicked pretext for the cover of her own political and revolutionary views.

The case of the western branches was next adverted to by Mr. B. Among these, he said, the business of

exchange was broken up *in toto*. The five western branches were forbid to purchase exchange at all; and this tyrannical order was not even veiled with the pretext of an excuse. Upon the north Atlantic cities, Mr. B. said, unlimited authority to all the branches was given to purchase bills, all at short dates, under ninety days, and all intended to become due during the shipping season, and to increase the demand for money while the curtailment was going on, and the screw turning from day to day to lessen the capacity of getting money, and make it more scarce as the demand for it became urgent. Thus were the great commercial cities, New Orleans, New York, Baltimore, and Philadelphia, subject to a double process of oppression; and that at the precise season of purchasing and shipping crops, so as to make their distress recoil upon the planters and farmers; and all this upon the pretext of new measures understood to be in contemplation. Time again becomes material, said Mr. B. The bank pressure was arranged in January, to reach its climax in March and the first of April; the debate in the Senate for the condemnation of President Jackson, which commenced in the last days of December, was protracted over the whole period of the bank pressure, and reached its consummation at the same time; namely, the 28th day of March. The two movements covered the same period of time, reached their conclusions together, and co-operated in the effect to be produced; and, during the three months of this double movement, the Senate chamber resounded daily with the cry that the tyranny and vengeance of the President, and his violation of laws and constitution, had created the whole distress, and struck the nation from a state of Arcadian felicity—from a condition of unparalleled prosperity—to the lowest depth of misery and ruin. And here Mr. B. obtested and besought the Senate to consider the indifference with which the bank treated its friends in the Senate, and the sorrowful contradiction in which they were left to be caught. In the Senate, and all over the country, the friends of the bank were allowed to go on with the old tune, and run upon the wrong scent, of removal of the deposites creating all the distress; while, in the two-and-twenty circular letters despatched to create this distress, it was not the old measure alone, but the new measures contemplated, which constituted the pretext for this very same distress. Thus, the bank stood upon one pretext, and its friends stood upon another; and for this mortifying contradiction, in which all its friends have become exposed to see their mournful speeches exploded by the bank itself, a just indignation ought now to be felt by all the friends of the bank, who were laying the distress to the removal of the deposites, and daily crying out that nothing could relieve the country but the restoration of the deposites, or the recharter of the bank; while the bank itself was writing to its branches that it was the new measures understood to be in contemplation that was occasioning all the mischief. Mr. B. would close this head with a remark which ought to excite reflections which should never die away; which should be remembered as long as national banks existed, or asked for existence. It was this: That here was a proved case of a national bank availing itself of its organization, and of its power, to send secret orders, upon a false pretext, to every part of the Union, to create distress and panic for the purpose of accomplishing an object of its own; and then publicly and calumniously charging all this mischief on the act of the President for the removal of the deposites. This recollection should warn the country against ever permitting another national bank to repeat a crime of such frightful immorality, and such enormous injury to the business and property of the people. Mr. B. expressed his profound regret that the report of the bank committee was silent upon these dreadful enormities, while so elaborate upon trifles in favor of the bank. He was indignant at the mischief done to private property; the fall in the price of staples, of stocks, and of all real and personal estate; at the ruin of many merchants, and the injury of many citizens, which took place during this hideous season of panic and pressure. He was indignant at the bank for creating it, and still more for its criminal audacity in charging its own conduct upon the President; and he was mortified, profoundly mortified, that all this should have escaped the attention of the Finance Committee, and enabled them to make a report of which the bank, in its official organ, declares itself to be justly proud; which it now has undergoing the usual process of diffusion through the publication of supplemental gazettes, which it openly avers would have ensured the recharter if it had come out in time, and to which it now looks for such recharter as soon as President Jackson retires, and the country can be thrown into confusion by the distractions of a presidential election.

Mr. B. now took up another head of evidence to prove the fact that the curtailment and exchange regulations of January were political and revolutionary, and connected with the proceedings of the Senate for the condemnation of the President; and here he would proceed upon evidence drawn from the bank itself. Mr. B. then read extracts from Mr. Biddle's letters of instructions (January 30, 1834) to Joseph Johnson, Esq., president of the branch bank at Charleston, South Carolina. They were as follows: "With a view to meet the coming crisis in the banking concerns of the country, and especially to provide against new measures of hostility understood to be in contemplation by the executive officers at Washington, a general reduction has been ordered at the several offices, and I have now to ask your particular attention to accomplish it." * * "It is as disagreeable to us as it can be to yourselves to impose any restrictions upon the business of the office. But you are perfectly aware of the effort which has been making for some time to prostrate the bank, to which this new measure to which I have alluded will soon be added, unless the projectors become alarmed at it. On the defeat of these attempts to destroy the bank depends, in our deliberate judgment, not merely the pecuniary interests, but the whole free institutions of our country; and our determination is, by even a temporary sacrifice of profit, to place the bank entirely beyond the reach of those who meditate its destruction."

Mr. B. would invoke the deepest attention to this letter. The passages which he had read were not in the circulars addressed at the same time to the other branches. It was confined to this letter, with something similar in one more which he would presently read. The coming crisis in the banking concerns of the country is here shadowed forth, and secretly foretold, three months before it happened; and with good reason, for the prophet of the evil was to assist in fulfilling his prophecy. With this secret prediction, made in January, is to be connected the public predictions contemporaneously made on this floor, and continued till April, when the explosion of some banks in this District was proclaimed as the commencement of the general ruin which was to involve all local banks, and especially the whole safety-fund list of banks, in one universal catastrophe. The Senate would remember all this, and spare him repetitions which must now be heard with pain, though uttered with satisfaction a few months ago. The whole free institutions of our country, was the next phrase in the letter to which Mr. B. called attention. He said that in this phrase the political designs of the bank stood revealed, and he averred that this language was identical with that used upon this floor. Here, then, is the secret order of the bank, avowing that the whole free institu-

tions of the country are taken into its holy keeping; and that it was determined to submit to a temporary sacrifice of profit in sustaining the bank, which itself sustains the whole free institutions of the country! What insolence! What audacity! But, said Mr. B., what is here meant by free institutions, was the elections! and the true meaning of Mr. Biddle's letter is, that the bank meant to submit to temporary sacrifices of money to carry the elections, and put down the Jackson administration. No other meaning can be put upon the words; and if there could, there is further proof in reserve to nail the infamous and wicked design upon the bank. Another passage in this letter, Mr. B. would point out, and then proceed to a new piece of evidence. It was the passage which said this new measure will soon be added, unless the projectors become alarmed at it. Now, said Mr. B., take this as you please; either that the projectors did, or did not, become alarmed at their new measure; the fact is clear that no new measure was put in force, and that the bank, in proceeding to act upon that assumption, was inventing and fabricating a pretext to justify the scourge which it was meditating against the country. Dates are here material, said Mr. B. The first letters, founded on these new measures, were dated the 21st of January; and spoke of them as being understood to be in contemplation. This letter to Mr. Johnson, which speaks hypothetically, is dated the 30th of January, being eight days later; in which time the bank had doubtless heard that its understanding about what was in contemplation was all false; and to cover its retreat from having sent a falsehood to two-and-twenty branches, it gives notice that the new measures which were the alleged pretext of panic and pressure upon the country were not to take place, because the projectors had got alarmed. The beautiful idea of the projectors, that is to say, General Jackson, for he is the person intended, becoming alarmed at interdicting the reception of illegal drafts at the treasury, is conjured up as a salvo for the honor of the bank, in making two-and-twenty instances of false assertion. But the panic and pressure orders are not countermanded. They are to go on, although the projectors do become alarmed, and although the new measure be dropped.

Mr. B. had an extract from a second letter to read upon this subject. It was to the President of the New Orleans branch, Mr. W. W. Montgomery, and dated Bank of the United States, the 24th of January. He read the extract: "The state of things here is very gloomy, and unless Congress takes some decided step to prevent the progress of the troubles, they may soon outgrow our control. Thus circumstanced, our first duty is to the institution, to preserve it from all danger; and we are therefore anxious, for a short time at least, to keep our business within manageable limits, and to make some sacrifice of property to entire security. It is a moment of great interest, and exposed to sudden changes in public affairs, which may induce the bank to conform its policy to them; of these dangers, should any occur, you will have early advice." When he had read this extract, Mr. B. proceeded to comment upon it; almost every word of it being pregnant with political and revolutionary meaning of the plainest import. The whole extract, he said, was the language of a politician, not of a banker, and looked to political events to which the bank intended to conform its policy. In this way he commented successively upon the gloomy state of things at the bank, (for the letter is dated in the bank,) and the troubles which were to outgrow their control unless Congress took some decided step. These troubles, Mr. B. said, could not be the dangers to the bank; for the bank had taken entire care of itself in the two-and-twenty orders which it had sent out to curtail loans and break up exchanges. Every one of these orders announced the power of the bank, and the determination of the bank, to take care of itself. Troubles outgrow our control! What insolence! When the bank itself, and its confederates, were the creators and fomenters of all these troubles, the progress of which it affected to deplore. The next words—moment of great interest, exposed to sudden changes in public affairs, induce the bank to conform its policy to them—Mr. B. said, were too flagrant and too barefaced for comment. They were equivalent to an open declaration that a revolution was momently expected, in which Jackson's administration would be overthrown, and the friends of the bank brought into power; and, as soon as that happened, the bank would inform its branches of it, and would then conform its policy to this revolution, and relieve the country from the distress which it was then inflicting upon it. Sir, said Mr. B., addressing the Vice President, thirty years ago the prophetic vision of Mr. Jefferson foresaw this crisis; thirty years ago he said that this bank was an enemy to our form of government; that, by its ramification and power, and by seizing on a critical moment in our affairs, it would upset the Government! And this is what it would have done last winter, had it not been for one man! one man! one single man! with whom God had vouchsafed to favor our America in that hour of her greatest trial. That one man stood a sole obstacle to the dread career of the bank; stood for six months as the rampart which defended the country, the citadel upon which the bank artillery incessantly thundered! And what was the conduct of the Senate all this time? It was trying and condemning that man; killing him off with a senatorial condemnation; removing the obstacle which stood between the bank and its prey; and, in so doing, establishing the indissoluble connexion between the movement of the bank in distressing the country, and the movement of the Senate in condemning the President.

Mr. B. said that certainly no more proof was necessary on this head to show that the designs of the bank were political and revolutionary, intended to put down General Jackson's administration, and to connect itself with the Senate; but he had more proof, that of a publication under the editorial head of the National Gazette, and which publication, he assumed to say, was written by the president of the bank. It was a long article of four columns; but he would only read a paragraph. He read: "The great contest now waging in this country is between its free institutions and the violence of a vulgar despotism. The Government is turned into a baneful faction, and the spirit of liberty contends against it throughout the country. On the one hand is this miserable cabal, with all the patronage of the Executive; on the other hand the yet unbroken mind and heart of the country, with the Senate and the bank; [in reading these words, in which the bank associated itself with the Senate, Mr. B. repeated the famous expression of Cardinal Wolsey in associating himself with the King: *Ego et rex meus;*] the House of Representatives, hitherto the intuitive champion of freedom, shapen by the intrigues of the kitchen, hesitates for a time, but cannot fail before long to break its own fetters first, and then those of the country. In that quarrel, we predict, they who administer the bank will shrink from no proper share which the country may assign to them. Personally they must be as indifferent as any of their fellow-citizens to the recharter of the bank. But they will not suffer themselves, nor the institution intrusted to them, to be the instruments of private wrong and public outrage; nor will they omit any effort to rescue the institutions of the country from being trodden under foot by a faction of interlopers. To these profligate adventurers, whether their power is displayed in the executive or legislative department, the directors of the bank will, we are satis-

fied, never yield the thousandth part of an inch of their own personal rights, or their own official duties; and will continue this resistance until the country, roused to a proper sense of its dangers and its wrongs, shall drive the usurpers out of the high places they dishonor." This letter, said Mr. B., discloses, in terms which admit of no explanation or denial, the design of the bank in creating the pressure which was got up and continued during the panic session. It was to rouse the people, by dint of suffering, against the President and the House of Representatives, and to overturn them both at the ensuing elections. To do this now stands revealed as its avowed object. The Senate and the bank were to stand together against the President and the House; and each to act its part for the same common object; the bank to scourge the people for money, and charge its own scourging upon the President; the Senate to condemn him for a violation of the laws and constitution, and to brand him as the Cæsar, Cromwell, Bonaparte, the tyrant, despot, usurper, whose head would be cut off in any kingdom of Europe for such acts as he practised here. Mr. B. said, the contemplation of the conduct of the bank, during the panic session, was revolting and incredible. It combined every thing to revolt and shock the moral sense. Oppression, falsehood, calumny, revolution, the ruin of individuals, the fabrication of false pretences, the machinations for overturning the Government, the imputation of its own crimes upon the head of the President, the enriching its favorites with the spoils of the country, insolence to the House of Representatives, and its affected guardianship of the liberties of the people and the free institutions of the country; such were the prominent features of its conduct. The parallel of its enormity was not to be found on this side of Asia; an example of such remorseless atrocity was only to be seen in the conduct of the Paul Benfields and the Debi Sings who ravaged India under the name of the Marquis of Hastings. Even what had been casually and imperfectly brought to light disclosed a system of calculated enormity which required the genius of Burke to paint. What was behind would require labors of a committee, constituted upon parliamentary principles, not to plaster, but to probe the wounds and ulcers of the bank; and such a committee he should hope to see, not now, but hereafter, not in the vacation but in the session of Congress. For he had no idea of these peripatetic and recess committees, of which the panic session had been so prolific. He wanted a committee, unquestionable in the legality of its own apointment, duly qualified in a parliamentary sense for discovering the misconduct they are set to investigate; and sitting under the wing of the authority which can punish the insolent, compel the refractory, and enforce the obedience which is due to its mandates.

6. The distress of the country occasioned by the Bank of the United States and the Senate of the United States. This, Mr. B. said, might be an unpleasant topic to discuss in the Senate; but this Senate, for four months of the last session, and during the whole debate on the resolution to condemn the President, had resounded with the cry that the President had created all the distress; and the huge and motley mass, throughout the Union, which marched under the *oriflamme* of the bank, had every where repeated and reiterated the same cry. If there was any thing unpleasant, then, in the discussion of this topic in this place, the blame must be laid on those who, by using that argument in support of their resolution against the President, devolved upon the defenders of the President the necessity of refuting it. Mr. B. would have recourse to facts to establish his position. The first fact he would recur to was the history of a reduction of deposites, made once before in this same bank, so nearly identical in every particular with the reduction which took place under the order for the late removal of deposites, that it would require exact references to documentary evidence to put its credibility beyond the incredulity of the senses. Not only the amount from which the reduction was made, its progress, and ultimate depression, corresponded so closely as each to seem to be the history of the same transaction, but they began in the same month, descended in the same ratio, except in the instances which operate to the disadvantage of the late reduction, and at the end of fifteen months had reached the same point. Mr. B. spoke of the reduction of deposites which took place in the years 1818 and 1819, and would exhibit a table to compare it with the reductions under the late order for the removal of the deposites.

Fifteen months' reduction of Deposites.

	1818-'19.		1833-'34.
October,	$9,136,527		$9,868,435
November,	5,259,251		8,232,311
December,	6,069,885		5,162,260
January,	2,856,393		4,230,509
February,	3,075,159		3,066,561
March,	3,458,488		2,604,233
April,	3,273,855		2,932,866
May,	2,883,329		3,257,345
June,	2,882,899		2,731,988
July,	3,670,281		2,675,433
August,	5,132,361		2,609,257
September,	3,047,135		2,155,212
October,	2,862,964		2,040,354
November,	2,230,750		2,001,639
December,	2,155,497		1,876,772
January, 1820,	3,560,712	Jan. 1835,	3,878,951

Here, said Mr. B., is a similar and parallel reduction of deposites in this same bank, and that at a period of real pecuniary distress to itself; a period when great frauds were discovered in its management; when a committee examined it, and reported it guilty of violating its charter; when its stock fell in a few weeks from 180 to 90; when propositions to repeal its charter, without the formality of a *scire facias*, were discussed in Congress; when nearly all presses, and nearly all voices, condemned it; and when a real necessity compelled it to reduce its discounts and loans with more rapidity, and to a far greater comparative extent, than that which has attended the late reduction. Yet what was the state of the country? Distressed, to be sure, but no panic; no convulsion in the community; no cry of revolution. And why this difference? If mere reduction of deposites was to be attended with these effects at one time, why not at the other? Sir, said Mr. B, addressing the Vice President, the reason is plain and obvious. The bank was unconnected with politics in 1819; it had no desire, at that time, to govern the elections, and to overturn an administration; it had no political confederates; it had no president of the bank then to make war upon the President of the United States, and to stimulate and aid a great political party in crushing the President, who would not sign a new charter, and in crushing the House of Representatives which stood by him. There was no resolution then to condemn the President for a violation of the laws and the constitution. And it was this fatal resolution, which we now propose to expunge, which did the principal part of the mischief. That resolution was the root of the evil; the signal for panic meetings, panic memorials, panic deputations, panic speeches, and panic jubilees. That resolution, exhibited in the Senate chamber, was the scarlet mantle of the consul hung out from his tent; it was the signal for battle. That resolution, and the alarm speeches which attended it, was the tocsin which

started a continent from its repose. And the condemnation which followed it, and which left this chamber just in time to reach the New York, Virginia, and Connecticut elections, completed the effect upon the public mind, and upon the politics and commerce of the country, which the measures of the bank had been co-operating for three months to produce. And here he must express his especial and eternal wonder how all these movements of bank and Senate co-operating together, if not by arrangement, at least by a most miraculous system of accidents, to endanger the political rights, and to injure the pecuniary interests of the people of the United States, could so far escape the observation of the investigating committee of the Senate, as not to draw from them the expression of one solitary opinion, the suggestion of one single idea, the application of one single remark, to the prejudice of the bank. Surely they ought to have touched these scenes with something more than a few meager, stinted, and starved lines of faint allusion to the "new measures understood to be in contemplation;" those new measures which were so falsely, so wickedly fabricated to cover the preconcerted and premeditated plot to upset the Government by stimulating the people to revolution, through the combined operations of the pecuniary pressure and political alarm.

The table itself was entitled to the gravest recollection, not only for the comparison which it suggested, but the fact of showing the actual progress and history of the removal of the deposites, and blasting the whole story of the President's hostility to the bank. From this table it is seen that the deposites, in point of fact, have never been all taken from the bank; that the removal, so far as it went, was gradual and gentle; that an average of three millions has always been there; that nearly four millions was there on the 1st day of January last; and before these facts, the fabricated story of the President's hostility to the bank, his vindictiveness, and violent determination to prostrate, destroy, and ruin the institution, must fall back upon its authors, and recoil upon the heads of the inventors and propagators of such a groundless imputation.

Mr. B. could give another fact to prove that it was the Senate and the bank, and the Senate more than the bank, which produced the distress during the last winter. It was this: that although the curtailments of the bank were much larger both before and after the session of Congress, yet there was no distress in the country, except during the session, and while the alarm speeches were in a course of delivery on this floor. Thus, the curtailment from the 1st of August to the 1st of October, was $4,066,000; from the 1st of October to the meeting of Congress in December, the curtailment was $5,641,000—making $9,707,000 in four months, and no distress in the country. During the session of Congress (seven months) there was a curtailment of $3,428,138; and during this time the distress raged. From the rise of Congress (last of June) to the 1st of November, a period of four months, the curtailment was $5,270,771, and the word distress was not heard in the country. Why? Because there were no panic speeches. Congress had adjourned; and the bank, being left to its own resources, could only injure individuals, but could not alarm and convulse the community.

Mr. B. would finish this view of the conduct of the bank in creating a wanton pressure, by giving two instances: one was the case of the deposite bank in this city; the other was the case of a Senator opposed to the bank. He said that the branch bank at this place had made a steady run upon the Metropolis Bank from the beginning to the ending of the panic session. The amount of specie which it had taken was $605,000; evidently for the purpose of blowing up the pet bank in this District; and during all that time the branch refused to receive the notes, or branch drafts, of any other branch, or the notes of the mother bank; or checks upon any city north of Baltimore. On the pet bank in Baltimore it would take checks, because the design was to blow up that also. Here, said Mr. B., was a clear and flagrant case of pressure for specie for the mere purpose of mischief, and of adding the Metropolis Bank to the list of those who stopped payment at that time. And here Mr. B. felt himself bound to pay his respects to the Committee on Finance, that went to examine the bank last summer. That committee, at pages 16 and 22 of their report, brought forward an unfounded charge against the administration for making runs upon the branches of the United States Bank, to break them; while it had been silent with respect to a well founded instance of the same nature from the Bank of the United States towards the deposite bank in this District. Their language is: "The administrative department of the Government had manifested a spirit of decided hostility to the bank. It had no reason to expect any indulgence or clemency at its hands; and in this opinion, if entertained by the directors, about which there can be but little question, subsequent events very soon proved they were not mistaken. The President's address to his cabinet; the tone assumed by the Secretary (Mr. Taney) in his official communication to Congress, and the developments subsequently made by Mr. Duane in his address to the public, all confirm the correctness of this anticipation. The measure which the bank had cause to fear was the accumulation by Government of large masses of notes, and the existence thereby of heavy demands against its offices, (p. 16.) "In persevering in its policy of redeeming its notes whenever presented, and thereby continuing them as a universal medium of exchange, in opposition to complaints on that head from some of the branches, (see copies of correspondence,) the security of the institution and the good of the country were alike promoted. The accumulation of the notes of any one branch for the purpose of a run upon it by any agent of the Government, when specie might be obtained at the very places of collection, in exchange for the notes of the most distant branches, would have been odious in the eyes of the public, and ascribed to no other feeling than a feeling of vindictiveness," (p. 22.) Upon these extracts, Mr. B. said, it was clear that the committee had been so unfortunate as to commit a series of mistakes, and every mistake to the advantage of the bank, and to the prejudice of the Government and the country. First, the Government is charged, for the charge is clear, though slightly veiled, that the President of the United States, in his vindictiveness against the bank, would cause the notes of the branches to be accumulated, and pressed upon them to break them. Next, the committee omit to notice the very thing actually done, in our very presence here, by the Bank of the United States against a deposite bank, which it charges without foundation upon the President. Then it credits the bank with the honor of paying its notes every where, and exchanging the notes of the most distant branches for specie, when the case of the Metropolis Bank, here in our presence, for the whole period of the panic session, proves the contrary; and when we have a printed document, positive testimony from many banks, and brokers, testifying that the branches in Baltimore and New York, during the fall of 1833, positively refused to redeem the notes of other branches, or to accept them in exchange for the notes of the local banks, though taken in payment of revenue; and that, in consequence, the notes of distant branches fell below par, and were sold at a discount, or lent for short periods without interest, on condition of getting specie for them; and that this continued till Mr. Taney coerced the bank, by means of

transfer drafts, to cause the notes of her branches to be received and honored at other branches as usual. In all this, Mr. B. said, the report of the committee was most unfortunate; and showed the necessity for a new committee to examine that institution; a committee constituted upon parliamentary principles—a majority in favor of inquiry—like that of the Post Office. The creation of such a committee, Mr. B. said, was the more necessary, as one of the main guards intended by the charter to be placed over the bank was not there during the period of the pressure and panic operations; he alluded to the Government directors! the history of whose rejection, after such long delays in the Senate to act on their nomination, is known to the whole country.

The next instance of wanton pressure which Mr. B. would mention, was the case of an individual, then a member of the Senate from Pennsylvania, now minister to St. Petersburg, (Mr. Wilkins.) That gentleman had informed him, (Mr. B.,) towards the close of the last session, that the bank had caused a *scire facias* to be served in his house, to the alarm and distress of his wife, to revive a judgment against him, whilst he was here opposing the bank.

[Mr. EWING, of Ohio, here rose, and wished to know of Mr. B. whether it was the Bank of the United States that had issued this *scire facias* against Mr. Wilkins.]

Mr. B. was very certain that it was. He recollected not only the information, but the time and the place when and where it was given; it was the last days of the last session, and at the window beyond that door; (pointing to the door in the corner behind him;) and he added, if there is any question to be raised, it can be settled without sending to Russia; the *scire facias*, if issued, will be on record in Pittsburg. Mr. B. then said, the cause of this conduct to Mr. Wilkins can be understood when it is recollected that he had denied on this floor the existence of the great distress which had been depicted at Pittsburg; and the necessity that the bank was under to push him at that time can be appreciated by seeing that two-and fifty members of Congress, as reported by the Finance Committee, had received "accommodations" from the bank and its branches in the same year that a Senator, and a citizen of Pennsylvania, opposed to the bank, was thus proceeded against.*

Mr. B. returned to the resolution which it was proposed to expunge. He said it ought to go. It was the root of the evil, the father of the mischief, the source of the injury, the box of Pandora, which had filled the land with calamity and consternation for six long months. It was that resolution, far more than the conduct of the bank, which raised the panic, sunk the price of property, crushed many merchants, impressed the country with the terror of an impending revolution, and frightened so many good people out of the rational exercise of their elective franchise at the spring elections. All these evils have now passed away. The panic has subsided; the price of produce and property has recovered from its depression, and risen beyond its former bounds. The country is tranquil, prosperous, and happy. The States which had been frightened from their propriety at the spring elections, have regained their self-command. Now, with the total vanishing of its effects, let the cause vanish also. Let this resolution for the condemnation of President Jackson be expunged from the journals of the Senate! Let it be effaced, erased, blotted out, obliterated from the face of that page on which it should never have been written! Would to God it could be expunged from the page of all history, and from the memory of all mankind. Would that, so far as it is concerned, the minds of the whole existing generation should be dipped in the fabulous and oblivious waters of the river Lethe. But these wishes are vain. The resolution must survive and live. History will record it; memory will retain it; tradition will hand it down. In the very act of expurgation it lives; for what is taken from one page is placed on another. All atonement for the unfortunate calamitous act of the Senate is imperfect and inadequate. Expunge, if we can, still the only effect will be to express our solemn convictions, by that obliteration, that such a resolution ought never to have soiled the pages of our journal. This is all that we can do; and this much we are bound to do, by every obligation of justice to the President, whose name has been attainted; by every consideration of duty to the country, whose voice demands this reparation; by our regard to the constitution, which has been trampled under foot; by respect to the House of Representatives, whose function has been usurped; by self-respect, which requires the Senate to vindicate its justice, to correct its errors, and re-establish its high name for equity, dignity, and moderation. To err is human; not to err is divine; to correct error is the work of supereminent and also superhuman moral excellence, and this exalted work it now remains for the Senate to perform.

Mr. B. having concluded his remarks,

On motion of Mr. WEBSTER, (and by general consent,) the bills on the table, on their third reading, were taken up, read a third time, and passed.

PUBLIC DEPOSITES.

The bill to regulate the deposites of the public money in the State banks having been taken up,

Mr. BROWN briefly explained the reasons upon which he intended to vote, viz: that the terms prescribed in the bill upon which the State banks are to receive the deposites were calculated to defeat the object in view.

Mr. BIBB said he desired to change his vote in regard to this bill, on the ground that he could not approve of the provision relative to the amount of specie these banks should be required to have in their vaults. And he did not feel himself at liberty to give any vote that might seem to sanction the late unconstitutional removal of the deposites from the Bank of the United States.

Mr. EWING admitted there was much force in what was said by the gentleman from Kentucky, but he did not think that the present act of legislation went to sanction the removal of the deposites.

Mr. POINDEXTER made a brief statement of the reasons which would compel him to vote against the bill.

After a few remarks from Mr. CALHOUN, in reply to Mr. POINDEXTER,

On motion of Mr. BLACK, the yeas and nays were demanded on the passage of the bill, and were taken as follows:

YEAS--Messrs. Benton, Black, Calhoun, Cuthbert, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, Knight, Leigh, Linn, McKean, Mangum, Moore, Porter, Prentiss, Preston, Robinson, Robbins, Swift, Smith, Southard, Tomlinson, Tyler, Waggaman, Webster, White--23.

NAYS--Messrs. Bibb, Brown, Buchanan, Hendricks, Hill, Kane, King of Alabama, Morris, Poindexter, Ruggles, Shepley, Tallmadge--12.

So the bill was passed.

EXPURGATION OF THE JOURNAL.

The resolution of Mr. BENTON again coming up,

Mr. SOUTHARD took the floor. Mr. S. said the resolution of the 28th March, 1834, declared, as the

* At pages 37 and 38 of the report, the Finance Committee fully acquits the bank of all injurious discriminations between borrowers and applicants, of different politics.

opinion of the Senate, that the President, "in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."*

The resolution now under consideration (said Mr. S.) orders that of 28th March to be "expunged" from the journals, and assigns the reasons for so doing. It is in the following words: "*Resolved*, That the resolution adopted by the Senate, on the 28th day of March, in the year 1834, in the following words: '*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both,' be, and the same hereby is, ordered to be expunged from the journals of the Senate; because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification; and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer; and at a time, and under circumstances, to involve peculiar injury to the political rights and pecuniary interests of the people of the United States."

The object of this resolution (said Mr. S.) is not to obtain an expression from the Senate that their former opinions were erroneous, nor that the Executive acted correctly in relation to the public treasury. It goes further, and denounces the act of the Senate as so unconstitutional, unjustifiable, and offensive, that the evidence of it ought not to be permitted to remain upon the records of the Government. It is an indictment against the Senate. The Senator from Missouri calls upon us to sit in judgment upon our own act, and warns us that we can save ourselves from future and lasting denunciation and reproach only by pronouncing our own condemnation by our votes. He assures us that he has no desire or intention to degrade the Senate, but the position in which he would place us is one of deep degradation--degradation of the most humiliating character--which not only acknowledges error, and admits inexcusable misconduct in this legislative branch of the Government, but bows it down before the majesty of the Executive, and makes us offer incense to his infallibility.

I am neither unprepared, Mr. President, nor reluctant to plead, for myself, not guilty, to this indictment; nor shall I hesitate to record my vote upon the issue which is forced upon us. Be the final close of the controversy what it may, I have conscientiously chosen my ground upon the questions which are involved, and will abide the sober and deliberate judgment of the country. The resolution of the 28th March, which it is proposed to expunge, asserts that the Executive had performed certain acts in relation to the public revenue, and that these acts were in derogation of the constitution and laws. It is no longer necessary to debate the truth of the first assertion. The removal of the money was the act of the Executive, on his own responsibility, and is now claimed by him and his advocates as highly meritorious, demanding increased admiration and renewed expressions of gratitude from a thankful people. The character of the acts only, and the right of the Senate to express its opinion, are now in question.

Upon these I have heretofore declared the views which I entertain; and I shall not trouble the Senate by a particular exposition of them at this time. I regarded the conduct of the Executive as a violation of law. The statute gave to the bank the right to be the depository of the public money; and it was not provided, in that statute, that the President might, of his own mere will, take it away. The charter was a solemn contract between the nation and the stockholders, which the Government was bound to regard, by every consideration which can operate upon national honor and justice. For this contract the holders of the stock had paid one and a half million of dollars, and performed most important and valuable services. It was a gross breach of the public faith to deprive them of their part of the bargain. If the bank had misbehaved, if its directors had made illegal claims upon the Government, if they had improperly opposed the election of an individual to the presidency, or in any manner broken their charter, the mode of punishment was prescribed by law, and the courts of the country were open; in which, if guilty, they might have been condemned. The tyrant's *sic volo*—I will it--could not properly be exercised in such a case.

The conduct of the Executive was a violation of the constitution and laws, which place the control of the public treasure in Congress, expressly declare that "no money shall be drawn from the treasury but in consequence of appropriations made by law," and also prescribe the mode in which it shall be done. Yet, in disregard of them all, the President took and still keeps possession of the whole treasure of the country, to the injury of our financial interests, and in utter contempt of the law and the constitution. It is true, Mr. President, that it was, and I believe still is, asserted that the Executive had not taken the control of the public money; that it was still under the regulation of law--as much so as if the deposites had not been removed. But what is the fact? Is it now in the place which Congress selected for its safe keeping? And if it be not, who has taken it away? Is it in the custody of those who were appointed to keep it? And if it be not, who holds it? Why are both Houses of Congress engaged in framing laws to regulate the public deposites? Why have the Senate, by a vote in which several of the friends of the administration concurred, passed a bill on this subject, and sent it to the House? Are they legislating where no legislation is required? The conduct of all parties admits the truth of the allegation. The Secretary of the Treasury, under the orders of the President, now deposites the money where he pleases; removes it from bank to bank at pleasure; takes such security as he approves, or no security at all; and controls it in all respects according to the dictates of his own discretion, and to accomplish whatever purposes he approves, without consulting Congress, or taking any direction from them. Nay, he decides what kind of money shall be received, and what shall not, in discharge of dues to the Government; and we are informed that he has even authorized receivers of the public revenue to accept claims against the Government, in some instances, in lieu of money. I am at a loss to know what power can be exercised over the treasury, which is not now exercised at the executive will and pleasure.

But, sir, however sturdily the defenders of this usurpation may have heretofore denied that the treasury was in the hands of the Executive, we have a witness who will not be impeached by them, and an authority which they will not disrespect. The President, in his message at the opening of this session, uses this

* The vote upon this resolution was:

YEAS—Messrs. Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Kent, Knight, Leigh, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster--26.

NAYS—Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Moore, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright—20.

language: "The attention of Gongress is earnestly invited to the regulation of the deposites in the State banks by law." Now, if they are regulated in the State banks by law, why this earnest appeal to Congress? And if they are not so regulated, it is not easy to perceive how they can be in the possession or under the control of Congress, as Congress can only act, by law, in relation to this subject. It is a distinct admission by the Executive that the present condition of the public treasury is not one prescribed by law.

The President proceeds: "Although the power now exercised by the executive department in this behalf is only such as was uniformly exerted, through every administration, from the origin of the Government up to the establishment of the present bank, yet it is one which is susceptible of regulation by law, and therefore ought so to be regulated." Mr. President, I neither admit nor believe that such a power was exercised before the establishment of the present bank, yet I admire the caution which limits the declaration to that period. When that bank was established, the deposites were regulated by law; they were put in the place which the legislative power, in its discretion, chose. And if they are not now there, if they are not now regulated by law, it has arisen from no act of the Legislature, but from the orders of the Executive and the course of the Secretary. It is that very act of taking them away from the regulation of law, which the Senate disapproved in the obnoxious resolution of the 28th March last. The message continues: "The power of Congress to direct in what places the Treasurer shall keep the moneys in the treasury, and to impose restrictions upon the executive authority, in relation to their custody and removal, is unlimited, and its exercise will rather be courted than discouraged by those public officers and agents on whom rests the responsibility for their safety." It would be somewhat difficult for a plain mind to reconcile this declaration of unlimited power in Congress to direct the places where the public money shall be kept, and also "to impose restrictions upon the executive authority in relation to their custody and removal," with the doctrines of the executive protest against the Senate, which affirms, in words, that "Congress cannot, therefore, take out of the hands of the executive department the custody of the public property or money, without an assumption of executive power, and a subversion of the first principles of the constitution."--Protest, 15th April, 1834. But if the power of Congress on this subject be unlimited, as is most cheerfully admitted by me, how is a justification to be found for the removal of the treasure from the custody which Congress had selected? And why is the resolution condemning the exercise of this unlimited power by the Executive so harshly denounced? The law did "impose a restriction upon the executive authority, in relation to the custody and removal of the money," and the responsibility was taken of spurning that restriction. And now Congress is called upon, and "earnestly," too, to impose others--with an assurance, which may give them confidence to act, that "its exercise will be courted, rather than discouraged by those public officers and agents on whom rests the responsibility for their safety." I ask, who imposed upon these officers and agents this responsibility? No law of Congress--no legislative provision. It was the act of the Executive alone; and yet very harsh rebuke has been bestowed upon those who have declared that the treasury was in the hands of the Executive and its agents, and not under the control of laws passed by the Legislature. May we not call, in our defence, the President himself?

Congress ought certainly to feel flattered by the assurance that the exercise of their high constitutional authority will not be discouraged, but will be even courted by officers and agents who hold their money. But, notwithstanding this assurance, it will be necessary for them still to take care that they exert their acknowledged and "unlimited power" in the right mode; for it is added in the message, that "it is desirable that as little power as possible should be left to the President or the Secretary of the Treasury, over those institutions," &c.—a distinct intimation that the money is, and must still be, left in the State banks; but if it be left there, Congress may have permission to regulate it by their "unlimited power." Can contempt for the understanding of the people, can scorn for the legislative authority, go further? The Executive seizes and disposes of the public money, puts it where he pleases, and then assures Congress that they may regulate it where he has put it.

I do, then, insist that the public treasure is not now under the regulation of law, but is in the hands of the Executive: and if I am in error on this point, pardon should be freely extended by those who still "have undiminished confidence" in the "purity of purpose and elevated motives of the Chief Magistrate." It was the violation of law, it was the assumption of the constitutional power of Congress over the treasury of the Union, it was the act of the President in taking possession of the public money and disposing of it as he pleased and where he pleased, that the Senate disapproved, and on which Senators recorded their votes. As one of them, I regarded the subject as immensely important, devoted to it the best powers of my understanding, and came to a conclusion, free from all doubt.

But we are now required to expunge the expression of our opinion from the journals, and to erase the resolution. And I, Mr. President, stand here a commanded man--ordered by the Legislature of my own State to denounce my own act—to obliterate my own vote—to violate the journals of this body--to degrade this high constitutional assembly—and to disregard my own sacred obligations to sustain and support the constitution of my country, according to the dictates of my judgment. Sir, in such a condition, hesitation would be criminal--obedience would be treason against conscience and duty.

Mr. President, have we the constitutional power, right, or authority, to pass this resolution—to expunge from the journals of the Senate the resolution which was passed and recorded at the last session? It is a solemn question. It requires a solemn answer, and must be met without evasion, and in its true import. The resolution does not call upon us to put upon the journals, at this time, a declaration that we were then in error. It does not require us to rescind or alter, or in any mode overrule the former decision. The instructions of the Legislatures do not call upon us to do this, but to expunge. They knew the mover of this resolution is not ignorant of the term expunge. Obedience to the instructions requires us to obliterate, erase, alter the journal; in substance, to tear from it the entry which is there made. Any thing short of this is evasion; it is disobedience. He who is instructed to expunge, and votes for any thing short of expunging, or any thing different from expunging, may evade his orders, but he does not obey them. He may cavil about the meaning, and tell us he does something which is equivalent, and which will satisfy the Legislature which instructed him; but he offers insult to them, in the very act of professed submission. Are they ignorant of the meaning of their own orders or instructions? Or will they be satisfied with partial obedience? If they have the authority to command, shall their servant tell them, you did not mean what you said; you will be content if I construe your orders in my own way, and if I do not what you did command, but what you ought to have commanded. This course will not answer. Mr. President, let us meet the

question fairly and openly. The object of the mover, the object of the instructing Legislatures is, to take out of the journals what they choose to call the condemnation of the President, so that it shall remain there no longer. We are expected to follow the example of the English House of Commons, in the case of John Wilkes: to order our Secretary to obliterate the journal, to stop the business of the Senate, command silence, and sit by while the act is performed. Can we do it? What says the constitution? In the third item of the fifth section of the third article are these words: "Each House shall keep a journal of its proceedings, and, from time to time, publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal."

The journal which we are now called on to deface is the journal thus prescribed in the constitution. The resolution which we are to expunge is a part of that journal. The yeas and nays have been entered upon it, and stand there in testimony—perpetual may that testimony remain—of the opinions and action of the Senate. It has been published and scattered to the four corners of our Union. We may reverse our decision and change our votes, but can we expunge that decision and obliterate the record? In my judgment, it would be an infraction of the constitution, a sacrilegious violation of a document which has all the inviolability which the constitution can confer on any instrument.

The Senator from Missouri, after great deliberation upon the subject, has announced his opinion that we may expunge. He has told us, in substance, that the order of the constitution is that we must "keep a journal," and that this order will be satisfied, if we write down from day to day memoranda of what we do; but that, having done this, we have obeyed the constitution, and are at liberty afterwards to erase from it what is incorrect and unconstitutional. This I understand to be his argument. And I must be permitted to express my astonishment at such a construction of this portion of the constitution. I will not say that it is suited to the times, lest it might be considered disrespectful. We are to keep a journal. May we keep it falsely? Misrepresent our acts and votes? Enter upon it what did not take place, or enter untruly that which did? May we state the ayes and noes incorrectly? May we omit decisions which are made, and acts performed? May we insert those which have no existence? If we may not, the reason is that our record must be true and faithful. But if it must be true and faithful when made, have we the right, afterwards, at any period, to make it false and untrue? Does the constitution mean that we are to note down truly, day by day, our proceedings; and yet, that a week, or month, or year afterwards, we may alter it as we please—falsify it? May we send it down to posterity with a falsehood upon its face? Is this keeping a journal, in the meaning of the constitution? No, sir. The constitution had important objects in view in this provision, and it deals in no double meanings. It intended that an honest record of our acts and votes should be made for the information of our fellow-citizens, and that it should remain a perpetual testimony of our faithfulness, or infidelity, to the constitution and the interests of our country, where our cotemporaries and our posterity, in all times to come, might see, not our deeds only, but the history of the legislation of the Government. Our constituents have a right to know what we say and what we do, and we have no right to withhold this knowledge from them; and I rejoice that mine may see and know all that I, as their agent, have done; and that there is no lawful power to hide it from them. The consequences of this modern notion of expunging from the journal what may be unpleasant or offensive to the existing majority, are calculated to alarm those who take an interest in the permanence and prosperity of our institutions. Shall I allude briefly to two or three of them? The striking of our clock and the approaching dissolution of Congress remind me that I must, on every topic, aim rather at brevity than fulness of illustration.

The changes of parties in our country are rapid. The possessors of the "spoils" to-day, become the antagonists of power to-morrow. They who enjoy popular confidence now, may shortly find themselves bereft of that confidence, and sinking unhonored into the mass of the community which will no longer regard them with respect. Opinions alter with the interests and condition of the country; and honest, intelligent, and wise men, who have formed their policy on existing circumstances, are often obliged to give way to others better skilled in the approaching or expected wants and relations of the nation. All this does take place; all this may and will take place hereafter, in the progress of society. I am no railer at popular changes. I have as much confidence as any man in the intelligence, firmness, and stability of the people of this country; and certainly do not yield, on this point, to any noisy demagogue, who supports to-day principles which he held up to scorn yesterday—with professions of devotion to the people on his tongue, and purposed deception and selfish ambition in his heart. I speak only of facts—changes have happened. If society shall progress and be prosperous and free, they must happen hereafter. It is the condition of every human society, especially when it is free. There are, there must be, frequent changes in public men and public measures. Shall it be established as the constitutional doctrine, that, on every change, the triumphant majority may erase from our records the acts and votes of their predecessors? If you pass this resolution, and it be established that we may alter and falsify the journals, such may, and not improbably will, be the course of our future history. The worst men in power will have the strongest temptation to erase the acts of the best. The most servile devotees of the favorite of the hour will be most likely to seek his favor, by expunging whatever may be obnoxious to him, or an obstacle in the way of his purposes. Your journal will cease to be a record of your acts; and may be made an instrument to aid the advance of corruption and despotism.

Observe the danger of this doctrine in another aspect. The Senate sits in secret, when advising the President upon treaties, appointments, &c. The record of their acts, with closed doors, is a part of the journals. If base motives have governed, if treachery to the best interests of the people has been exhibited, if a responsibility has been assumed which may overwhelm the guilty when the journal shall be published, and their conduct exhibited, how easily will this doctrine now to be established, and this example now to be given, enable them to conceal for ever their guilt, and evade the account which the public might require. It was better to have no journal of our secret sessions, but to leave every member to give such relation of our actions as his interest dictates or his regard for truth might require.

Mr. President, will you look to another consequence? Entries are made on these journals of the votes and proceedings which create, enact, and give validity to the laws of the land; and to all those acts which are enjoined on the Senate by the constitution--laws, treaties, appointments, judgments on impeachment, every thing. Shall we calmly establish the doctrine that these votes may be expunged, and these constitutional acts be left unsustained by the authority which gives them sanction and validity? For, sir, even the proceedings and judgment upon an impeachment may as well be expunged, as any other item in that record. It is a process of nullification

new in the theory and practice of our Government, now first attempted, and whose consequences no man can anticipate or depict. For me, sir, it is impossible to bring myself to a belief in its correctness. The constitution commands us to keep a journal. It must be true and faithful; it must remain inviolable; and when you shall have expunged any thing from it, you will have disregarded one of the plainest and most important injunctions of our great constitutional charter.

Such being the view which I take of this resolution, it is due to the respect which is properly felt for the Legislatures of the States who have enjoined upon us to vote for it, and it is due also to the long deliberation and the grave annunciation of opinion by the Senator from Missouri, that I should not omit to notice some of the reasons which he has presented for its adoption. These reasons I am bound to regard as the best which can be afforded. The Legislatures have furnished none. They have not reasoned: they have commanded. They have not sought to convince, but to control our judgments. Their resolutions are in almost the same set phrases. Their form might have been stereotyped here, and sent out "by authority" for sanction to the extremes of the Union, and they would have returned to us in phraseology differing little from what they now contain. The Senator has argued that we ought not to have passed the resolution of the 28th March, because it was unjustified by fact, and he endeavors to sustain this declaration by the thousand times told tale of the misconduct of the Bank of the United States. We hear on this, as we do on every topic where executive action is in question, an incessant repetition of the bank—the bank—the monster bank. In that word all reasoning and argument are combined. Is the law said to be violated? We are told the bank has been guilty. Is the constitution disregarded? The bank has misbehaved. Has executive patronage been extended until it overshadows the liberty of the country? The bank is a monster. Do we seek to arrest the avowed corruptions of a Department? The bank has been corrupt. Do we ask to have the public treasure restored to the guardianship of Congress? The bank has interfered with elections. Mr. President, I ought not to attempt an answer to such arguments; for I admit my incapacity to comprehend their application and force. Let us agree that the bank has been guilty of each and every sin laid to its charge—that it was unconstitutional in its origin, and has been base in its actions; does that justify the Executive in taking from Congress the custody of the public treasure—in disposing of the public revenue at his will—in trampling upon law and the constitution—in sustaining a Department in open and acknowledged misconduct? Sir, such reasoning evades the question. It sets up a false issue. I am not at liberty to suppose it to be designed to mislead public attention from the true inquiry, but such has been its effect. It is perfectly known that the issue most insisted on at the elections—most earnestly pressed by the party in power—was the propriety of rechartering the bank: an issue not presented by the proceedings of the Senate—not made by the resolution which we are called on to expunge. For one, sir, my opinion was founded, my vote was given, on the conviction that the acts of the Executive could not be justified; and I would have given the same vote, with or without reference to the recharter or the conduct of the bank. I desire to sustain the sacredness and inviolability of the laws; and the existence or character of the present or of any bank must have been with me a secondary and comparatively insignificant consideration. The correctness of the opinions of the Senator from Missouri about the bank may be admitted, and yet the resolution of the Senate perfectly warranted. The bank may have acted incorrectly, yet the Executive is still guilty of assuming and exercising a power not granted to him. Such was the case: at least such were my deep convictions. The resolution of the Senate was true, and was justified by the facts before us.

But, whether true or false, what has its truth or falsehood to do with our power to expunge it from the journals? Does the Senator mean to affirm that, whenever we may become satisfied that any act, resolution, or vote of this body at a former period, was incorrect in principle, or unsupported by fact, that we may erase it—expunge it from the record? Has each succeeding Senate the power thus to sit in judgment upon its predecessors, and in this mode to execute its judgments? The assumption is too monstrous for argument. Under such a doctrine and practice, every change of opinion would lead to a change of the records of your Government and your journals; and the history of your legislation would become a falsehood, scorn, and reproach.

It is further insisted that the resolution of the 28th of March ought to be expunged, because it contains an accusation of crime, and was an impeachment and condemnation of the President, without hearing or trial—a judicial, not legislative act, which we had no constitutional power to perform.

This reason, in none of its aspects, is sound. The resolution avers that "the President had assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both." But it charges no criminal intent or purpose. It alleges no design, for corrupt objects, to violate his known duty. And criminal purpose is of the essence of criminal acts. An impeachment must charge wilful and corrupt motive. Judgment of condemnation is founded upon, and embraces, evil intent. The fact alleged in the resolution may be true, yet the President would not be properly impeachable. We, as his judges, could not condemn him, if he were on trial before us. The only mode by which we can reach the conclusion of the Senator from Missouri is, by the assumption of infallibility in the Executive. We must first decide that the President cannot err in judgment or opinion, without he does it corruptly. This being settled, if we then charge him with error in his proceedings, we charge him with corruption and crime. If we then say that he has done an act not justified by his powers under the constitution, we allege what may authorize an impeachment. On this question there may be a difference between the Senator and myself. He may, for aught I know, esteem the President incapable of error. I do not. I believe it quite possible that he should put a false construction upon his constitutional rights and powers, and that he may fall into even dangerous errors, without deliberate intent to violate the constitution and laws. When, therefore, the Senate expressed their opinion that his proceedings were an assumption of power not conferred, they affirmed only their opinion of a fact which does not necessarily imply guilt worthy of impeachment.

The Senator has not, I believe, the merit of originating this invention to cast reproach upon the act of the Senate, or, if he has, he has rivals in zeal on this topic. Knowing well the popular devotion to the chief, it has been the good pleasure of his advocates, every where, to rouse up that devotion by vehement allegations that he was accused of corruption and crime. Attachment thus excited is not very acute in examining facts and discovering truth; but rallies promptly to defence. The movement has therefore not been without its effect, especially when connected with another equally incorrect allegation, that the President has been tried and condemned without a hearing. Without a hearing, sir! What were the acts which the Senate condemned? The removal of the deposites, and the proceedings connected with it. Was the President unheard upon that question when the vote was taken in the Senate? His

official paper, which even one of our foreign ministers, perfectly versed in cabinet knowledge and secrets, regards as authority for the President's opinions and intentions, and which is received as the guide of political faith by hundreds of thousands of our citizens, had devoted months, under his intimate observation, in defending the right and the expediency of the measure. The celebrated exposition of his conduct on the 18th September, under his own hand, had been published in every possible form, and read by every intelligent man. His annual message had developed his views, and his effort at justification. His Secretary of the Treasury had communicated his "reasons," in the most labored and ingenious paper which his talents could produce. And even upon this floor, the admired and skilful advocates of the measure had defended it with a zeal and industry which extorted applause. Condemned without a hearing! Why, sir, what more had he to urge? What new fact, what hidden view of the proceedings and of the constitution, was to be developed? The allegations upon this point of condemnation and want of hearing, however intended—and I am bound to believe, so far as Senators are concerned in them, they were correctly intended—have served as an appeal to party passions, and additional fuel to party prejudices; but they are totally unsustained by a reference to the history of the case.

But, Mr. President, the resolution of the Senate is described as a judicial and not a legislative act; and it is argued that we could not express our opinions, because the President might be brought before us on impeachment. Let us try this notion by the constitution itself. What was the character of the act which we condemned? The constitution had given to Congress the control of the national treasure—Congress had directed it to be deposited in the bank—the President had seen fit to take it out of that depository, and place it in the possession of those whom he selected for the purpose. When Congress met, it was in their hands, and under his orders. It was to be restored, or it was to be continued, under proper regulations, where we found it. We were required to legislate in regard to it. We could not legislate without inquiring into the causes and reasons for and circumstances attending its removal, and the condition of safety or danger in which it was left. These were presented to us, in compliance with the law and by the President's command. Our duty was to form an opinion of their sufficiency; we could not avoid it. If we must legislate, we must form opinions what legislation is proper. The first step in our progress was to make up and express our decision respecting the condition of the treasury. There was but one mode of escaping it, and that was base and servile. We might have said, it is the President's will; and it is not ours to find fault with what he has done, but humbly to aid, by our legislation, the execution of his designs. This did not happen to be the mode of reasoning in the Senate. It was not mine, sir. Let those who approve it condemn me. The resolution of the Senate was the expression of its opinion, preparatory to the passage of a law to regulate the treasury. Such a law was contemplated. A law on the subject is now recommended by the Executive himself. The House of Representatives were engaged in discussing one during the last session, which was rendered necessary and proper solely by the act of the Executive. Both branches of Congress have been engaged upon the same subject during the present session. Whether any law will be passed, cannot yet be safely predicted. It depends too much, I fear, on the executive pleasure.

But, Mr. President, the motion which I am combating goes upon the idea that our act was judicial in its character, and therefore we are restrained from our ordinary legislative action. Is this so? The constitution has prescribed certain limits to legislation in both Houses. These are to be regarded. But beyond these the freedom and extent of legislative action in the Senate is precisely the same as in the House. If there be restrictions upon us, not common to the Representatives, let them be shown. If there be not, then they must be restrained where we are restrained. And will it not hence follow, that neither we nor they can inquire and express our opinions of any executive action—of any assumption of power—of any error in executing the laws? Or has it come to this point, that we may express opinions if we approve executive proceedings; but, if we do not, we must be silent? This seems to me the true result of the doctrine; and it is abhorrent to every idea of legislative independence—every sense of civil liberty—every sound construction of the constitution—and denounced by the whole practice of the Government. How often in our history has it occurred, that one or both branches have approved or disapproved of executive acts? Is not our history full of such instances? One has been alluded to. When the Executive refused further intercourse with the British minister, Jackson, in consequence of his language and conduct, Congress expressed their approbation. It was a case of agonizing interest to humanity. Peace and war, treasure and blood, prosperity and adversity, national honor and disgrace, might have depended upon it. The Executive was assured that Congress and the people were prepared for the issue. But had Congress disapproved, must they have been silent—they in whose hands are placed the treasure, and peace, and blood of the country? Must the representatives of the people's will have been regardless of them because the Executive erred? Or could the House have spoken, and the Senate been commanded into silence, lest they might be called to adjudge that the Executive not only erred, but erred corruptly? The doctrine that Congress may not express disapprobation of executive action, wherever the legislative power is to be called into exercise, is fit for despotism, but should find no countenance in a land of liberty. The notion that the Senate must be silent whenever there is a possibility that an executive officer may be called to answer by impeachment, disrobes it of its constitutional power of legislation, and breaks down one of the guards which the people have provided for their safety. We were not silent, during the last session, in a similar case. When we became satisfied that the Postmaster General had been guilty of misconduct, and had borrowed money illegally, we said so; and the vote of every member in this body, who was present, stands upon your journals in condemnation of his conduct. No vote was then given in his defence—no voice warned us that we were performing a judicial act, and that our legislative powers did not extend to the passage of such a resolution. Why was this, sir? What new light now shines upon us? Why are we not called on to expunge that resolution also? Is not the Postmaster General a high executive officer? Is he not impeachable as the President is? And where is the distinction between the two resolutions? There is but one. One resolution relates to William T. Barry, a Postmaster General; the other to Andrew Jackson, a President of the United States, the head and idol of a party, who, we are advised, is to descend to posterity in brilliancy and splendor, while they who call his acts in question will be forgotten and unknown. There is, however, one circumstance which may remind the future of their names. They are inscribed, sir, on that journal, from which power itself cannot erase them.*

**Extract from the Journal of the Senate, June* 27, 1834.

"The question was then taken on agreeing to the first resolution, in the following words:

"*Resolved*, That it is proved and admitted that large

The true exposition of the constitution in regard to the Senate is this: We have legislative, executive, and judicial powers. These are separate and independent; the one neither enlarged nor limited by the other, except as the constitution has provided. When we are called on to perform legislative duties, we must perform them, and perform them fully, in all their extent. If we are restrained from legislating because we must advise the President in his executive duties, where is the line at which we must stop? So with regard to our judicial authority. There is doubtless a constant intermixture of all those powers; sometimes, in our actions, an interference also. But this results from the will of the people who established this body, and assigned to it its various powers and duties. And the question with us now is, not whether they acted wisely in so ordaining, but what did they ordain? We must perform our duties as legislators, as guardians holding a sacred trust from the people and for the people; and when we are called upon to sit in solemn deliberations upon offending officers, we must pronounce our judgments, though their offences be connected with the legislation which we ourselves have created and sanctioned. I am not ignorant that this combination of duties is hard and trying. It requires a heart as pure as an intellect clear. But it is the condition of our office. We must discharge our legislative duties, be the difficulties what they may. The resolution of the 28th of March, which we are required to expunge, was one of those duties. We discharged it according to our best judgment, and the constitution forbids that our decision should be erased.

But, Mr. President, the Senator from Missouri has not only satisfied himself that the resolution was wrong; that we had no rightful power to pass it; and that we may obey the constitution if we keep a journal, and afterwards expunge from it what we disapprove; but he cites precedents to show the propriety of the act. I do not scorn or disregard precedents. Though I do not admit their conclusive force upon my opinions, yet I delight to examine them as evidences of the reasoning of other men, in other times, under like responsibilities with myself; and if they satisfy my mind, I follow where they lead; if they do not produce conviction, I do not surrender my judgment to their authority. But their whole value, at all times, must depend upon their application to the cases before us. Let us cast a glance at those to which reference has been made. One is from Massachusetts. A resolution was passed during the late war, in a state of high political and party conflict. It was subsequently ordered to be expunged. The propriety of the resolution or its erasure it is not for me here, and on this occasion, to discuss. I look at the authority. Was there in the constitution of Massachusetts any provision requiring the Legislature to keep a journal, to record the ayes and noes, and to publish them from time to time? If not, then the question there was one of propriety only, not of constitutional right to perform the act. By expunging it, the Legislature violated no command of their constituents in their highest exercise of sovereignty, the creation of their constitution. Now, sir, I have found no such provision in that instrument. I do find it in ours. Their Legislature did not violate their charter; but we shall violate ours if we pass the resolution upon your table.

The other precedent is from the British House of Commons, in the case of John Wilkes. He had been elected to Parliament by Middlesex. He was expelled, I think, in 1769, and was re-elected. He was declared ineligible, and Colonel Luttrel, who had received but a small amount of votes, not a majority, was admitted in his place. An effort was subsequently made to have the proceedings expunged from the journal. It was often repeated, and always unsuccessfully, until May, 1782, when, in a body of several hundred members, by a vote of 115 to 47, the order to expunge was given, and it was executed in the presence of the House. This is the precedent which the Senator from Missouri has taken for his model, and assures us that he will make continual claim, until he succeeds as Wilkes did. Has he inquired into the authority of the British House of Commons in relation to their journals? They have no written constitution. The people of England have never ordered their representatives to keep a journal, and to record and publish their votes. The power of Parliament, in ordinary phraseology, is omnipotent. The House of Commons regulates its journals according to its own pleasure, and by precedent and practice. However improper or incorrect the proceedings in regard to the journal in the case of Wilkes might have been, no written provision of a constitution ordained by the people was violated. Our act must stand on different ground. The people, in the plainest form, in written language, in the most solemn expression of their will, have commanded us on this point. Shall we, can we, have we the power to disobey their commands?

There is another aspect of this precedent to which I call the attention of the Senator from Missouri, and of others: to the nature of the matter expunged, and the controversy which existed. The people had elected J. Wilkes to Parliament. He had been expelled. The people re-elected him. He was refused his seat, and a man whom the people had not elected was admitted in his place. The people were denied their constitutional privilege to be represented by the man of their choice. An alien to their affections, an instrument of the Crown, a man sustained by patronage, was thrust in as their representative. All this was done by executive influence, usurpation upon popular rights, and disregard of the laws of the land. The people were not submissive. They would have been fit for all the degradation which tyranny can impose, if they had yielded. They did not. They petitioned, they remonstrated, they almost rebelled, and "Wilkes and Liberty" became, for the time, the watchword of freedom. But was it John Wilkes whom they regarded in their struggle? He was debased as a man, and worthless as a patriot, and without principle in the pursuit of his selfish aims. But, in his person, the sacred rights of British freemen had been violated; the privileges of election and representation had been prostrated by executive encroachment; the laws of the land had been disregarded; the money of the people and the public offices had been used to secure obedience to the will of the King; and the people forgot the unworthiness of the instrument which was in their hands, while they warred against the dangers which they foresaw from the increasing power, and influence, and patronage, of the executive department. They demanded

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sums of money have been borrowed at different banks, by the Postmaster General, in order to make up the deficiency in the means of carrying on the business of the Post Office Department, without authority given by any law of Congress; and that, as Congress alone possesses the power to borrow money on the credit of the United States, all such contracts for loans by the Postmaster General are illegal and void—

"And decided as follows:

"YEAS—Messrs. Benton, Bibb, Black, Brown, Calhoun, Chambers, Clay, Clayton, Ewing, Forsyth, Frelinghuysen, Grundy, Hendricks, Hill, Kane, Kent, King of Alabama, King of Georgia, Knight, Linn, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Robinson, Shepley, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster, White, Wright—41.

"NAYS—None."

legislative enactments from Parliament, and they were yielded. They demanded that the evidence of the usurpation upon their rights should be erased, and it was done; done by their order—not the order of their inferior agents; done for their protection; done to secure their privileges; done to rebuke a House of Commons which had yielded their rights for the gratification of the ministry and the Crown; done, not to relieve the Executive from an expression of the opinion of Parliament that the laws and constitution of the realm had been broken by him, but to rebuke the Crown and a servile Parliament which had yielded to the will and influence of the Executive and his ministry; done as much to condemn the King as the Commons; and in this respect much more nearly resembles the resolution of the 28th March, 1834, than the one upon your table. I commend this aspect of the precedent to the reflections of the Senator from Missouri, and others who may advocate the erasure of the journal.

To urge us to the adoption of the resolution, the Senator has referred to what he chooses to regard as the condemnation of our act by the House of Representatives, that being one of the evidences of our error. It is not very parliamentary to urge one branch of the Legislature to opinion and action, by the disapprobation of the other, even where it has been carried out into legislation. And if it were true that such was our case, it would operate lightly on my mind. An opinion formed with anxious deliberation, as mine has been, does not yield merely to adverse opinion without argument and fact; nor does denunciation overcome it, when unsustained by reasoning which produces conviction.

But, sir, is the fact correctly stated? Have the House of Representatives, at any time, expressed a direct opinion in favor of the conduct of the Executive in removing the deposites? Have they passed any resolution, or taken any vote, which declares, in words or in substance, that the executive proceedings were conformable to, and not "in derogation of, the constitution and laws?" I may have been negligent in observing their course; but I remember none such. Efforts were made to compel a vote upon that point, but they were fruitless. It was evaded; it was prevented by those who usually sustain the Executive. They would not, at least they did not, permit an expression of the House on that question. Why they avoided it, why they did not meet it fully, is for others, not for me, to explain. If a majority of that body had, in their consciences, believed that the President acted correctly, it seems to me that there would have been no escaping from the question; no laying it upon the table; no reluctance to express their approbation. That this was not done is sufficient evidence that a majority of that body were, in opinion, adverse to the executive conduct. It is much easier to avoid voting upon a question than to condemn a favorite. And the conduct of the House, instead of being a rebuke to the Senate, is a silent affirmation of the truth of our resolution of the 28th March.

It is true, I believe, that the House passed a bill regulating the deposites in the State banks. But this might be done, even when placing the money in those banks was condemned. It may possibly yet be done by the Senate, and by the votes of those who passed the obnoxious resolution. The public money is in those banks. It is there under the orders of the Executive. It is without regulation by law. It cannot be taken out and restored to the lawful depository without the permission of the Executive, or the vote of two-thirds of both Houses. Shall it be left unregulated, at executive will, in violation of all the principles of our Government? This is the difficulty now before us; it was the difficulty when the bill was in the House at last session. And shall those who voted for the bill then, or who may here vote for some bill which shall restore the money to the government of the law, be regarded as approving the trespass which the Executive committed? They will feel themselves acting under strong necessity; a compulsion inflicted by the executive act, and may yield so far as to pass a law to regulate the treasury. No, sir, the House has not, by any vote of which I am aware, condemned or rebuked the resolution of the Senate. Let the question be fairly put, in plain and direct terms: Was the conduct of the Executive right? and if a majority shall be found there to affirm it, I will not deny that they differ from us in opinion, whatever influence the fact may have, but it can have very little, in giving us authority to expunge the journal.

There has been, Mr. President, but one other suggestion or argument presented to us, which I can now permit myself to examine. The Senator informs us that the Legislatures of several States have instructed their Senators to vote for expunging the resolution of the 28th March last. This is true, sir; most true. He adds, that the people are moving in the same direction; and he prophesies that those who do not yield obedience will be overwhelmed by the "mountain wave" of popular indignation. This may also be true. I cannot foresee the end of this question. But I am indebted for the argument and the warning. They require me to reconsider my opinions, and justify me in detaining the Senate, even at this late hour, by an examination of the ground on which he relies. What is it? The Legislatures have instructed, and therefore Senators are bound to vote as they have directed. It is always wise to understand accurately what is meant by the terms we use, before we attempt to reason with or about them. General and sweeping remarks are of little value—a precise statement of a question is always useful. What is meant by the "instruction of a Legislature," as the phrase is now understood? It is not expression of opinion, advice, information, counsel, wish, request, direction, instruction, in its ordinary meaning, which implies information given, and which may conduct the instructed into the path of duty, and into a compliance with the wishes of those who instruct. All this may be and is cheerfully conceded, not to the members of the Legislature only, but to every other citizen. The representative, no matter in what station, will most thankfully and gratefully receive every counsel and advice, as to the opinions and wishes of those whom he represents; will desire to conform to them, and feel that his own burdens are relieved, when he can have their judgment to guide him. But instruction, as now maintained and justified, is of a sterner character. It is command—order by a superior. It implies an unqualified right in the Legislature to dictate, and an unqualified obligation in the Senator to obey the dictation. It asserts that the Legislature has lawful authority to command the Senator in all his official acts, and that he must not disobey their orders on any point. It asserts, also, the duty of the Senator to resign, if he cannot obey; and the right of the Legislature to recall him, if he does not obey. The one is a necessary consequence of the other; they are united, and cannot be separated. Those who advocate the one, also advocate the other; and the practice conforms to the principle. When a Legislature has instructed, and a Senator disobeys, he is requested to resign, and give place to a more flexible agent.

It is in this sense that we are to view the question of instruction, and the argument of the Senator from Missouri. Has a State Legislature such right? Is a Senator subject to such authority? If such right exist, what is its extent? By whom may it be exercised? Whence do they derive it? And what are to be its legitimate and necessary consequences? It becomes not only us,

who are now called to act, but it becomes also every intelligent citizen in this country, to examine these questions. They will be found to touch closely the nature of our Government, and the safety and permanence of our existing institutions.

I intend, in my remarks on the subject, to confine myself entirely to an examination of these questions, as they apply to State Legislatures and to Senators. That is the precise matter now before us; and I do not choose to enter into inquiries not involved in the resolution, and in the argument of the Senator from Missouri. I should by that course only bewilder and expose myself to misapprehension here, and to misrepresentation elsewhere. I will deal with the right of legislative instruction, not with the right of the people to control and influence their representatives.

What is the extent of this right in the Legislature? It is not confined, nor can it be, to one subject, or to one act; but embraces all, and extends to every function of the Senator—legislative, executive, and judicial. No advocate of it has attempted to limit it to any one branch of senatorial duties. It is, in its very nature, incapable of limitation to any particular class. If it may be exerted to direct a Senator how he must vote upon a law, or other legislative matter, it may also to govern him upon a vote upon a treaty, or upon an appointment to office, or upon an impeachment for official misconduct. Let those who deny this exhibit the line at which it stops. They will find no one principle upon which it can rest, which does not justify its application as well to all as to any one of the acts of the Senator.

Can this right be limited to questions of expediency and policy? Will it not embrace constitutional questions also? Where is the sound distinction which limits it to the former? Sir, the right claimed, nay, the very case of last session, and the case especially which is now before us, that of expunging the journal, are those of constitutional power and right, in which the Legislatures have instructed their Senators to disregard express provisions of the constitution. And the claim requires obedience on every other constitutional point which may arise, and on which the Legislature may please to instruct. The Senator must yield his conscience, and his judgment, and his official oath, on them all. He may not deliberate where he is commanded. He must obey or retire.

And, Mr. President, this pretended right may be exerted on questions upon which the people themselves have not deliberated, nor expressed their opinions; nor given their instructions to their agents, in the State or out of it. The claim is not to instruct Senators where the people have directed that they should be instructed, and on points upon which they have made up and uttered their opinions, but upon all which the members of the Legislature may please. If the Legislature may instruct, they may do it where they choose, not where the people direct. Questions may, and often do, arise after elections, which were not within their contemplation at the time, on which they have not been consulted, and on which their wishes are not and cannot be known. It was so in the case of the deposites. The right and propriety of the executive action had not been submitted to the people. They had not been asked for their judgment in regard to it. And so it may be in any other instance. The Legislature possessing the right may exercise it, without a previous submission to the popular will. This, then, is the extent of the right of instruction claimed for the State Legislatures. It is to command the Senator, on every question of expediency and constitutional power, whether the people have, or have not, expressed their opinions upon it. A right so controlling ought to rest on no questionable grounds. "It is thus written," should be the justification for its admission and its exercise.

By whom is it to be exercised? By the members of the State Legislatures, and because they are members. They may have been elected at a time of no excitement, when no great question called the people to the polls, when the point on which the instruction is given had not arisen. They may have been elected upon partial and local grounds, for reasons confined to a single township, or county, or State—for temporary causes, having no connexion with national questions, and when the voters looked only to local legislation, and had not the slightest intention, by choosing them, to express their views in regard to the interests of the Union, or the construction of the constitution, or they would not have elected them. They may have been elected by a small minority—by a plurality—by the votes of one-third or one-fifth of the legal voters in the county; and when, in regard to general politics, they do not truly represent the majority of the people of the county.

They may, when in session, constitute a majority of one or two of the Legislature; or, if some be sick or absent, even a minority of the body. All these circumstances are of daily occurrence. No man can reflect a moment without recollecting them in his own State, as the common results of elections there. Yet no one, nor all of them united, create an impediment to the exercise of this power of instruction. They are members of the Legislature, and, as such, they claim to exercise the right to speak for the people, and the whole people, without consulting them, and by an authority inherent in their office. Do they possess it, under our system of Government? If they do not, if it has not been conferred upon them, it is an assumption by them of the rights and authority of the people. All exercise of power not delegated, is, in our country, and under our system, usurpation. Every agent, in every office, from the highest to the lowest, has his prescribed limits—limits fixed by the people, the only source of authority, the only sovereign power which is inherent, undelegated, and underived. The constable can exercise no authority given to a justice—nor the sheriff to the court—nor the members of the Legislature to the Judiciary or the Executive; and so it is with every other public officer. Has, then, this right to instruct Senators been conferred upon the members of the Legislature? Is it a part of their prescribed duty?

It belongs to this debate, and to the position which I occupy, that I should be explicit upon this topic. I shall not evade it, but submit my views without disguise, confident that they will be received here and elsewhere with the candor which appropriately belongs to such occasions, and be treated with the fairness due to a public agent to whom an important trust has been confided. I deny the binding authority of legislative instructions to Senators; I deny that members of the Legislature have a right to command me to do what I regard as a violation of the constitution, and to recall me if I do not obey. There is a sense in which, and there are subjects on which, I do not deny their right to instruct, and these I will endeavor to explain hereafter; but I am now discussing the question as it is presented to us, and justified, as an unqualified right, depending on their discretion alone, to command me, and to require my obedience or my resignation. This doctrine has assumed momentous importance by its recent exercise in the Union. Several State Legislatures have been occupied in the high office of instructing, supervising, commanding their Senators. How many more will think it expedient to follow the example is yet to be seen. One or more have requested members of this body to resign. It is now used as a means both of annoyance and expulsion; and, if it be continued, and become the settled doctrine, will shortly change the whole theory of our Government. It will degene-

rate into an ordinary weapon of party warfare; and may hereafter be used, under the influence of high temporary and party excitements, in moments of blind personal devotion to a chief, by intrigue, personal interests, and resentments, under any or all those circumstances from which danger to "our republican system" is to be apprehended.

Whence, then, the power? It can come from two sources only: the constitution of the State, and the constitution of the United States. They contain the grants of power to all officers and agents of the people, and neither legislators nor others can rightfully perform acts not authorized by them, and the laws passed in conformity with them. This is the democratic, the republican doctrine of past times. It is the doctrine of freemen, under free and limited institutions. Let not those who now make so noisy a boast of their democracy and love for the rights of the people discard it, either in theory or practice.

No State constitution, so far as I am informed, gives this power, in terms, to the Legislature. The constitution of my own State affords no apology for it. It confers the legislative power on the two branches—the Council and Assembly--but this legislative power could, by no possibility, have referred to and embraced this right of instruction or command when that constitution was formed. The Senate and Senators were then unknown. They were not, nor any thing which resembled them, within the contemplation of its framers. It came into existence before the declaration of independence, while we were yet colonies, but in a state of rebellion. Although not the oldest in date, it probably went into actual operation before any other free written constitution on this continent, which was created by freemen for their own government. It was formed in an hour of alarm and calamity, in compliance with the advice of Congress of 10th May, 1776, "to provide it, as best conducing to the happiness and safety of their constituents in particular, and of America in general."

Will it be suggested that, as all legislative powers in the State were vested by it in the Legislature, this power must be regarded as embraced when the occasion for its exercise arose, on the establishment of the general Government? Before this suggestion can have the slightest force, two propositions are to be proved: First, that the power of instructing Senators is a legislative power. Second, that the formation of the Union did, or could, without specific provision, confer new powers on the Legislature of a State. Now, neither of these propositions can be maintained. The power in question is no more legislative than it is executive or judicial. The instruction may relate to acts of the latter as well as former character. And the fact that new powers of government were conferred upon other agents could not enlarge those of the legislative agents then in existence. I admit that the people of New Jersey, or any other State, when they made their general compact, the constitution of the Union, might have provided that their Legislature should exercise this or any other authority; and, if they had done so, it would be a justification for their exercise. But did they do this?

This inquiry calls up the compact between the States. Does it give this power? Its terms and provisions, and they only, must answer this question. The constitution of the United States confers nothing on any one but what it declares that it confers. Examine it, scrutinize it, and tell me if this right of instruction is contained in it, either by express grant or by the most forceful implication which ingenuity can devise. There is not one word which can be tortured into the admission, and its whole theory and object are adverse to it. Where does it declare or admit that the State Legislatures may control the Senate, or that they are constituent members of it? Yet this is the fair result of the doctrine. If the Senator obey the instructions of the Legislature against his own convictions of duty, he ceases to be a free agent, but, as the obedient agent of others, records not his own vote, but that of the Legislature. If he cannot obey, and is driven to resign, another is substituted who does record the vote, and thus the Legislature's decision becomes a part of the votes and journals of the Senate; and the State Legislature is, in effect, a member of the Senate of the United States. This is not the position which the constitution intended it to hold. It has authority to elect members to represent the State in that body; but when that act is performed, its authority and duty cease together. The constitution goes no further--gives it no other power. The people never intended that the Senate, one branch of their general Legislature, should be subject to the dictation and control of one of the branches of the Government in the States. The whole theory of our system is the reverse of this.

It was formed to avoid the interference, by the States, which had rendered the confederation inefficient. It was intended to be capable of sustaining itself and directing its own movements. It was not designed for a narrow territory, with a few inhabitants, like one of the cities of Greece, where the whole people could meet, decide upon their interests, and appoint agents to execute their already declared objects, but to extend over a territory wide as the dominions of Rome—embracing not thousands, but millions—acting upon the people of many distinct States, bound together by the terms of their contract, in which was one great, and, in its mode of action, essentially new principle—that of government by representatives, who, although they were selected by the particular portions, were also to represent the whole, and vote in the government of the whole, and for the whole, as well as for their particular part. To subject these representatives to the dictation of a single branch of the local government of one of the portions, would counteract the very purpose of their creation. To insist upon it, is to disregard the solemn compact which the States have made with each other. But will it be urged that the Legislature elected the Senator, that the Senator is a representative, and the representative is bound to obey his constituents who elected him? It must be first proved that a Senator represents the Legislature. An admission of this right in the constituent, in its utmost latitude, does not touch the question. The question is, Does a Senator represent the Legislature of the State? Are they, and they only, his constituents? When and how were they placed in this high position? The members are, themselves, but temporary representatives of detached portions of the people—elected annually, and to be discharged, at each election, whenever the sovereign pleasure of the people who chose them may will it. Who gave to them this power to control and to dismiss others who represent this same people, acting in their united and aggregate capacity? The Senator represents the Legislature no more than he represents the Judiciary, or the Governor. The Governor, for the time being, represents the people, and exercises the executive power of the people of the State: shall he instruct the Senator in the discharge of his executive duties, when, for example, he acts as a part of the treaty-making power? The Supreme and other courts represent the people, and exercise the judiciary power of the people of the State: may they also instruct the Senator in the discharge of his high judicial office—that of impeachment? Or shall the Legislature assume to dictate to the Senator, in all the departments of power, although they themselves possess only those belonging to one of the departments? The sound doctrine of our system is, that the Senator represents not the Legislature, the Executive, or the Judiciary of the State, but the State

itself—the whole State--in its united and aggregate character—the people, as bound together in one political and social body; and the terms on which he represents them are to be found in the constitution of the Union, which the State aided in forming, and to which it has given its assent. And, in that great instrument, no condition is to be found which requires him to obey the Legislature of the State or be dismissed from office.

In this exposition of the representative character of a Senator, and my denial of the right of the Legislature alone to control him, especially on great constitutional questions, I fall far short of the doctrine of the present Chief Magistrate of the United States, and I look for countenance and support to his advocates, although I cannot come up entirely to his standard. If I understand the doctrines of the proclamation, which obtained for him unbounded applause, and every letter of which has been declared worthy of being set in gold, he denies control, not in the Legislatures only, but in the States themselves, over the representatives in Congress. He says: "The people of all the States do not vote for all the members, each State electing its own representatives. But this makes no material difference. When chosen, they are all representatives of the United States, not representatives of the particular States from which they come. They are paid by the United States, not by the State; nor are they accountable to it for any act done in the performance of their legislative functions." And however they may, in practice, as it is their duty to do, consult and prefer the interests of their particular constituents, when they come in conflict with any other particular or local interest, yet it is their first and highest duty, as representatives of the United States, to promote the general good."

Sir, this is one of the strongest doctrines of consolidation. It is not democracy. It is not republicanism. It passes far beyond the avowed principles of federalism in 1798. If it be true—and what friend of the administration here or in the State Legislatures will deny it?—I, as a Senator, do not represent the State of New Jersey; nor am I accountable to it for any act which I may do in the performance of my legislative functions. How, then, is it possible that I can be accountable to the Legislature alone, and that they can control, command, instruct, remove me? Let the Senator from Missouri, or the members of the Legislature, explain.

But I beg not to be misunderstood. I do not cite this as my own doctrine. I am a representative of New Jersey, and although bound to have respect to the general good, I hold myself accountable to the State, in all the forms of the constitution, for the manner in which I shall discharge my office. But I protest that those who advocate the doctrines of the President have no right to condemn my refusal to subject my conscience and judgment to the keeping of a few members of the Legislature, when I am endeavoring to protect the constitution from violation, and seeking the general and permanent prosperity of the country. They are not the State. The principle to which we have been adverting, that of election and representation, as conferring the right of instruction on the Legislature, cannot stand when brought to the test of examples.

The Legislature of New Jersey elects the Governor, the judges of the supreme court, the clerks, and surrogates.

May they, therefore, instruct and control all those officers in the discharge of the duties assigned to them by the constitution and laws? The chancellor, in his decrees—the judges, in their judgments—the clerks and surrogates, in their official acts? And if not, then, why not? They elected them; they may, when their offices expire, refuse to re-elect them, and appoint others. Yet instructions would be, in regard to all of them, inoperative, and worse—an inexcusable interference. Then, why may they instruct a Senator? His duties and power and rights are as clearly defined as theirs, and by as high and sacred an authority. He is also further removed from them, and their duties, than any of these officers. The regular legislative action in the passage of laws, prescribes rules for the latter, whilst the Senator is an officer in another portion of their government, to which their legislative powers do not extend, and in which other States in the Union have an important interest and concern.

Take another example. The electors choose the President and Vice President of the United States; may they also instruct them? and why not? Is it that the body of electors is dissolved? and is not the Legislature also dissolved? The legislative power always exists, but the members, for the time being, give the instruction. And where are they? How many of those of the last year, who first instructed on this subject, have ceased to occupy seats in the body, and may never return to it? To make the case precisely parallel: suppose the Legislature, when it elects a Senator, and before he has entered upon his office, instruct him how he is to conduct himself. Their right exists then, if at any time. And suppose the electors of President were to do the same thing, before they close their office. Which would be most reasonable--most just--most within the spirit of the constitution? Or is it that the President represents the whole Union, and not the people, or the Legislature, which has chosen one body of the electors? And does not the Senator, to a certain extent, do the same? When he makes laws or approves treaties, he does it for the whole, not a part. When he consents to the nomination of an officer, he appoints him for the whole, and not a part. And when he sits upon an impeachment, he pronounces the high judgment of the combined nation.

I would further suggest that, if it be election which confers the power, then it must belong to those only who elect, and their successors may not interfere. If it be representation, then the Senator does not represent the Legislature, and they can, therefore, have no right in the matter except as they may be specifically authorized by the State—by the aggregate people of the State—to give the instruction. I have heard of no such authority or instruction having been given to them. If it be the State, as a State, which has the right, then the Legislature is not the State--and the Governor and the judges have equal authority to join in these instructions.

If representation gives the power, it must be because the representation is confined to those who instruct. If it extends to others, they must be consulted, and may object. But the doctrine of the President is that the Senator does not, under our constitution, represent the Legislature or the State. He represents the whole people of the Union, and must consult the general welfare, without regard to the State.

Once again. The Supreme Court of the United States represents, in the exercise of its judicial authority, not the States merely, but the whole people of the Union. It is the judicial power of the people which acts through them. Every portion of our whole system is representative. May they also be instructed in their duties? May the States, or may Congress, or may the President and Senate, who appointed them, instruct them? If the right rests upon election, or upon representation, it will be difficult to excuse them from what is called the voice of the people, speaking through their immediate representatives. The absurdity of the idea relieves me from argument on this point.

If the doctrine be that, because it represents the people, the Legislature is authorized to judge for them, when Senators need instruction, why may not Senators

also judge when members of the Legislature need instruction? The members represent counties from which they are sent, and, united, represent the State; their majority forming the decision. So do the Senators represent the people of the State--the whole people, in its aggregate character, as people and State. The truth is, they are both equally representatives of the same people, and neither has the right to interfere with and instruct the other.

Upon this topic, it is proper for me further to inquire whether the right of instruction be inherent in the members of the Legislature, as such, or whether it results from the fact that they represent the opinions of a majority of the people of the State? If the former, the answer is already given. If the latter, then I inquire, may it not and does it not often happen, from the unequal division of parties in the several counties, that a minority of the members of the Legislature do actually represent a majority of the people? The case has not been uncommon in our history. In such case, have the minority a right to instruct? And by what principle or rule of justice, or of representation, will you deprive them of it? And may it not be added, that the only value of the instruction is, that it does speak the sense of a majority? But to make that sense efficient, it surely cannot be necessary that it should assume the form of instructions. If the representative knows it, he should, by this principle, be equally bound to obey it, whether the Legislature becomes its mouth-piece or not. Now, it so happened that my predecessor held his place in the Senate for several years, with political opinions and preferences opposed to the known and acknowledged opinions and preferences of the majority in the State. Yet he neither retired, nor have I heard any censure bestowed on him by the ardent supporters of this doctrine. It was right in him, because he thought with them--is it wrong in me, because I differ from them? There are other similar, and even stronger, instances with men who have now all the honors of democracy, and all the confidence of the Executive.*

I respectfully declare, then, to the Senate, that I am not able to discover, in any one of the sources of authority, sufficient ground, upon which the right of the Legislature to command and compel me to obey can rest. And I confess, Mr. President, that I feel no solicitude to find it there or elsewhere. The consequences of the doctrine, if it were established and made the rule of practice in our country, would necessarily be such as I cannot contemplate with any satisfaction. They would uproot our constitution from its foundations; make legislation, both in the general Government and in the States, a mere system of electioneering, and augment the power of intrigue and party violence.

Permit me, sir, to call your attention to a few of the consequences.

In the case before us the instruction requires us to alter our journal. If the instructing Legislatures have the right to alter it, others have an equal right. They may find fault with other entries upon it, and direct their erasure; and our journal will no longer be under our control, but must be made up and kept as the Legislatures of the States may dictate. The constitution in regard to it would become a dead letter.

The next consequence would be to destroy the tenure by which Senators hold their offices, under the express command of the constitution, and instead of leaving them calmly, and with an honest eye to the public good, to the discharge of their solemn functions, would render it necessary for them to look to annual elections in the States, to secure their friends, and preserve themselves from vexation and recall. It would convert them from the dignified representatives of the rights and honor of States, into the paltry intriguers for popular applause.

The constitution expressly declares that Senators shall be chosen "for six years." Does this mean that they shall be removable at the will of the Legislatures? Can any one believe that such was the intention of this article? Or that its spirit is not directly violated by the assumption of the power of recall? No argument can make the words or the meaning more clear. But, in times of party excitement, when new principles are advocated, it is often useful to look back to historical facts, that we may be reminded of the nature and objects of our institutions, and not causelessly violate or disregard the purposes for which they were created.

With those who have studied the history of our constitution, no doubt can exist on this point. By the 5th article of the confederation of 9th July, 1778, it was expressly provided, that delegates to the general Congress "should be appointed annually, but that the power should be reserved to each State to recall its delegates, or any of them, at any time, within the year for which they were appointed, and to send others in their stead for the remainder of the year." Annual appointments, and the power of control and recall, were thus secured by that confederation. When the Union was formed, this provision was fully before the convention and the people, was considered, and was omitted for the express purpose of excluding this power of control over the Senator, and to secure to him the term of six years. It was not carelessly or thoughtlessly done. It had not only been otherwise provided in the confederation, but every man who had to pass upon the constitution knew the article and the practice, and was in the habit of seeing its exercise, and familiar with its effects. And they united in exploding the provision from the new Government. The convention which formed it and the conventions in the States concurred. No amendment was proposed by any State on this point—an argument conclusive to my mind of the intention of the instrument, and persuasive, too, of the wisdom of the plan. I should regret to see that which experience had taught them to disapprove introduced now, and in violation of the words of the constitution. The length of time fixed for the Senator was a subject of earnest debate and division in the convention; but why debate it, and divide about it, if the power was reserved to control and recall the Senator at pleasure?

In the greater number of States this article was agreed to without difficulty, and especially so in New Jersey, where it was, I believe, unanimously adopted. In one or two of them objection was made to it, but the objection was then triumphantly answered; and the constitution was adopted in them with a full knowledge and perfect understanding that the power was denied to the States and to their Legislatures. In New York the question was largely discussed by Mr. Lansing, Chancellor Livingston, and others, and an amendment was proposed to give the power of recall; but it was rejected. (See 1 Elliot's Debates, 257, 272. 3 do. 303.) The sense of the people, at that day, was almost universally against it. Are we now wiser, or more pure in our love of liberty and republican principles, than our fathers? They formed the constitution as it is; they fixed the term of office for the Senator at six years; they denied the power of instruction and recall; and with them I am willing to err on this occasion. I am, at least, not willing, by my own

* Among the instances referred to may be mentioned--Mr. Chandler, Mr. Woodbury, Mr. Dickerson, Gen. Smith, Mr. Livingston, and Mr. Morris; all of whom have been rewarded, at least none of them have been punished, for retaining their seats in the Senate, while a majority of the people of their States were opposed to them in opinion.

act and consent, to see the constitution, as they made it, and as they intended it, disregarded and violated. If they erred, let their work be amended; but, while it stands, let it be inviolable.

The term of the Senator is not only changed by this doctrine, but he is converted into an officer dependent on the will of the Legislature annually, or, as is sometimes the case, particularly in Rhode Island, semi-annually elected—a tenure more uncertain than any other under the Government—unless, indeed, we adopt the new assumption, that every executive officer holds his place at the mere will of the President, who is not responsible for the manner or the motives of his dismission.

It may, it often does, happen that the political character of the Legislature is frequently changed. Upon this theory, there must be a new Senator upon every change. In Rhode Island, if I recollect correctly, the changes have been such that she might have had, nay, ought to have had, six Senators in two years. So, in Ohio, last year she instructed her Senators—one of them disobeyed. If he had resigned, the present Legislature, which is of a different political aspect, would have instructed his successor; and we should have had two new Senators upon the floor, and the State had five in a little more than one year. The rebellious one of last year might have been restored; unless, indeed, the Legislature should, as they ought under such circumstances, spurn him from their confidence for his servility, as destitute of that moral courage and independence of character, without which a public agent is a public curse. The history of my own State is not destitute of facts to illustrate this doctrine. The changes which have taken place in the political parties there, since 1824, would have given to us some six or eight different members, and this resulting from no versatility or changeableness in the character of her people. The number of our counties is small—only 14. The parties throughout the State have long been nearly balanced. In several of the counties, the change of a few votes, or the neglect of a small number to attend the polls, would not only give a new representative in the Legislature, but change its political character. A little more than 100 votes in one or two of several counties would have changed the late instructions. There are, I believe, about 20 members of the majority who hold their seats by an average of not more than 120 votes—some of them by less than 100. Suppose there should be a small alteration of opinion, resulting from some general or local cause, the political aspect will be changed. Shall the Legislature again instruct; drive the recently elected Senator from his seat, before he has had time to become familiar with it; and restore the one whose office is about expiring, and of whose character and virtues, public and private, I feel restrained from speaking?

I beg that the effect of this doctrine upon the Senate may be considered. It was intended to be the most permanent and stable body under the Government—the equal representative of that portion of sovereignty which the people chose to leave in the several States—a constant and vigilant check to the encroachments of executive patronage and power; and a temporary obstacle to the sometimes rapid changes of popular feeling and opinion; securing regularity in the action of the Government at home, and holding out to other nations a fit ground for confidence in our stability and faithfulness.

To ensure these high objects, a term of six years was granted, extending beyond the official term of one Executive, and reaching to the middle of that of his successor; and extraordinary powers were combined, legislative, executive, and judicial, and duties imposed sufficient to strain the strongest powers of the strongest mind, and calling upon members for the exertion of a pure integrity, an enlarged intelligence, and unquestioned firmness. He who shall be competent and faithful enough to meet the requisition, is entitled to admiration and applause. Yet it is this body, possessing such powers, and designed to be thus permanent, which the doctrine that I resist would render the least steady, most variable and unsettled of any in the Union or in the States—acted upon at every alteration of opinion, as whim, caprice, or party feeling might dictate. The changes of position in its members would resemble rather the alternations and mazes of a country dance, than the movements of one of the most elevated legislative assemblies on earth. And resistance to executive encroachment by them would be rendered impracticable—hopeless. Whenever it was attempted, it would ensure the bitterest assaults upon, and abuse of, the Senate—create an effort to displace the obnoxious members, and break down its constitutional character and authority.

Nor would its effect upon the proceedings of the Senate be less deplorable. A law is under consideration; a prevailing party in one or more States takes an interest in it; its orders are transmitted, and the law is passed or fails, as the order may direct. An appointment is proposed; similar instructions enforce its success or defeat it. A treaty is sent for concurrence; it is in the power of the State Legislatures to cause its rejection. And all these orders may be the effect of local and partial interests, in total forgetfulness of the general good. May I beg the Senate to look at another instance. We may be sitting as the highest judicial tribunal known to the constitution. A high officer is before us, upon trial. His character, fame, rights as a citizen, more than life, depend upon our judgment. We have listened to the evidence, deliberated upon the law, and are prepared for our decision under the solemn sanction of our oaths. At that moment a Senator rises in his place, and, holding in his hand an instruction from his Legislature, announces to his brethren that he is commanded, against his conscience and his convictions of justice, to pronounce a sentence of condemnation on the accused. What would be the sensations of that moment? What the estimate of this right of instruction then?

Will I be told that such examples are imaginary? That to suppose their existence is an impeachment of the intelligence and integrity of the members of the Legislature? I answer, are they alone the individuals who will not abuse power for party or other purposes? Are not guards necessary for them as well as others? Is it any more improbable that they will command Senators to disregard their oaths, when passing laws and making appointments, than when sitting as judges? Is it any more criminal in us to obey, against our consciences, when we are passing sentence or impeachment, than when we violate the constitution?

But, Mr. President, look at the effects upon the States. In the distribution of legislation between the general and State Governments, the latter was designed to regulate those matters of local and domestic interest upon which the ordinary prosperity of mankind depends—the rules of property, reputation, life, rights of citizenship—to have the parental guardianship of private life and social tranquillity. To exercise it wisely and faithfully, intelligence and virtue in the members must be accompanied as far as practicable by exclusion of extraneous and agitating questions. But this doctrine, by making the question of who shall be the Senator one of constant and ceaseless recurrence, would convert our legislative assemblies into the established arenas for the struggle and conflict of senatorial and presidential parties. The inquiry at State elections would not be, who is most fit and competent to regulate our domestic interests and rights, but who will vote for the recall of the Senator, and put some other, some favorite political partisan, in

his place. It would also have a tendency to induce servility to men in power. The existing administration would naturally desire the removal of such as formed an impediment to its wishes, and call upon the party in the State Legislature to remove them and substitute its friends. And so long as it is a favorite maxim that "a measure of the administration is of course a party measure, and as party men we are bound to support it," they must obey, or be thrown into opposition, and denounced as unprincipled turncoats and apostates. And, in nearly equal divisions of parties, or the accidental or necessary absence of one or more of the majority, it would put it in the power of a minority to bind Senators by orders, having all the forms and sanctions of legislative authority. It would direct the assaults of intrigue and corruption against those of the majority, who might be deemed least competent to judge, or most accessible. They would be invested with a temporary and unnatural importance, courted, seduced, drilled, driven. It would change the legislation of the Government from a system of consultation and deliberation, comparison of opinion and interchange of intelligence, into one in which the members would serve but as echoes, in which they would not be permitted to exercise their own intelligence; but must seek to understand the command which is given, and servilely obey it. It has been well remarked with regard to the tenure of office, that, if its exercise and its continuance depend upon the mere pleasure of the appointing power, unsuitable men will generally be chosen, because, without reputation or principle, men are always most obsequious to those who make and can unmake and destroy them. Their standing with the people is temporary and unsubstantial: they feel this, and will rest upon the arm of power, not upon the people, to sustain them; while dishonorable compliances will be demanded in vain from men of better principles and higher character; for, if removed from office, they will but step back to that position of credit, and respect, and honor, and confidence among their equal fellow-citizens, which possession of office did not give, nor can its loss take away, supported by conscious rectitude, and integrity, and talents, with a just reliance on the sufficiency of their own character to sustain them. The doctrine is well suited to the obsequious representative who is prepared to compromise his own dignity and conscience, rather than lose his office; but surely he who shrinks from duty with this fear, is unworthy of respect as a man, and still more unworthy to be the representative of a free, a generous, a fearless people.

I dread, too, that this doctrine, if it shall obtain the sanction of the people of the United States, will be made, in times of party excitement and rigid party discipline, a weapon of tremendous power over a minority, which may deprive them of that equal protection which all our institutions guaranty, and render them the slaves of the majority, not the subjects of the laws. Should the cords of party be so tightly drawn, that members who disapprove some important measure, and have even prepared resolutions or expressions of disapprobation, shall be compelled to withhold them, and unite in measures of applause; should it occur here, as it has occurred, occasionally, in all free countries, that some artful and ambitious man, with humble professions of devotion to popular rights, but whose real character is concealed; some "veiled prophet" of liberty, some "great Mokanna" of politics, shall be advanced to power, who is disposed to use the confidence of the people to enlarge the exercise of his authority, and remove every obstacle out of his way, what instrument can be so efficient in his hands as this doctrine of instruction and recall of Senators, whereby they will be deprived of that tenure which would enable them to survive the pressure of the moment, and stand by an assaulted constitution? All that he and the instruments of corruption around him—the *instrumenta regni*, as the historian calls them, in the times of Roman despotism—all that they will have to do, will be to issue the form of a resolve to their advocates in the Legislatures of the States. They, confiding in the integrity of the man of their choice, full of faith in "the creed and standard of their Heaven-sent chief," looking only to his support and that of their party, pass the resolve there. The edict is issued there; it enters our hall in the same set phrases, from the very extremes of the Union. It is recorded here. The resisting Senators are silenced. Opposition is withered. The vote of condemnation, or other offensive matter, is erased. All obstacles are removed, and the idol of party sits upon "a throne to which the blind belief of millions has raised him." But the constitution of the country lies bleeding beneath the operation, and freedom is driven from her chosen residence—where to find a habitation, God only can tell.

Whether this doctrine is to become familiar, I know not, Mr. President. In my own State it has not yet become familiar. In her colonial condition it was unknown, even with regard to the members of her Legislature. Since the formation of the Union, it has not been common in relation to the general Government, although several instances of it exist; yet they are not sufficient to establish it as the doctrine of a people who, in the formation of both their Governments, made no provision for its exercise, but unanimously, and with unhesitating promptitude, adopted that of the Union, which bound them to their sister States, to elect Senators for a specific period, and bound those Senators to exercise their high functions, "to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." Nor has it become the habitual practice in the other States. For the first eight or nine years of the Union, is was not considered sound doctrine, and few, if any, instances exist of its exercise. Even in the celebrated resolutions of Virginia, in '98, it was not made a part of the plan by which that State desired to accomplish her purposes and rescue the constitution from what she believed its violation. Subsequent and much more recent times have given it vigor, and it has been politically baptized as ancient democracy, under singular auspices, for the establishment of democratic principles; and, under a signal from power, it has been declared in keeping with the temper of the times. It is indeed fearfully so.

Mr. President, I have thus presented my views of this question of instruction, and might, perhaps, cease to trespass upon the Senate, but I desire not to be subjected to misrepresentation, unless it be wilful; nor to be condemned for opinions which I do not entertain. I deny the right of the Senate to expunge the resolution of the 28th March last, whether the Legislatures of the States have instructed us to make the erasure or not. I deny the right and expediency of legislative instructions to bind the conscience and judgment of the Senator in matters of constitutional law. I resist their right, in this mode, to compel him to resign; and insist that they have equal right thus to treat any other officer who represents the people or the State. I have said on another occasion,* before the people of New Jersey, and previous to the bestowal of her confidence in electing me to my present office, that this duty of governing the officers of the general Government was not assigned to State officers. "This power does not exist in the Legislatures any more than a similar power exists in the

* Inaugural address on 29th October, 1832.

representatives of the general will, (the Senators, for example,) to control and correct the Legislature of the State in that which has been intrusted to their care. It can only be so, if it be thus written in the constitution, the grant of their powers, and there I do not find it. The proper course for State officers is, to exercise fully and faithfully the powers given to them, and to resist encroachments upon them, but not to act as guardians, and render void the acts of others, whom their common masters have deputed to perform other services connected with their rights and interests. They may not do this unless the authority has been given to them; and, in our State constitution, our warrant to act, no such guardianship is prescribed." And I may now repeat that I can perceive no just principle which will admit instructions from the Legislature to Senators which will not also admit instructions from Senators to members of the Legislature. Both are representatives of the same people, bound to regard their interests, and to discharge their prescribed duties in their different positions; but, as I think, neither authorized to interfere with by controlling the other. How would an instruction from the Senators of the United States, from the State of New Jersey, to her Legislature, upon the passage of some law, or upon some political or party question, be received and regarded?

But let not my opinions be perverted. I do not spurn or disregard the expression of opinion, advice, wishes, will, either of the people or the Legislature of the State. My respect for them is such as becomes the equal citizen of a free community, who has been favored by their suffrages, enjoyed their confidence, and trusted in many of their official stations. On the same occasion to which I before referred, I also said that "the people of New Jersey, by themselves, or through their representatives here, and to their representatives there, have the right, and are bound by duty to themselves, to convey their commands on this or any other interesting topic; and it is their business both to watch and control the doings of their general agents, and, as they appointed them, so to correct their wanderings and errors." The view then taken of the relative powers and duties of the two Governments is not now discarded. And, however the word commands, in the foregoing sentence, may admit of cavil, the meaning cannot be misapprehended, although it may be, and has been, misrepresented. The original and controlling power of the people is recognised, as well as their duty to look to the conduct of their agents urged. But the power of a part of their agents, the members of the Legislature, to assume their places, is denied. The people may speak, and speak through them, but it must be by a direction and authority expressly given. The people have a deep interest in all the acts of a Senator: a perfect right to watch, guard, advise, correct, his "wanderings and errors." To communicate their wishes and opinions, so that he may be in no doubt respecting them; and, if he do not comply, to punish him. But even they must exercise the power in the mode pointed out in the constitution of the country, which they themselves have made—to which they are parties—and to the support of which they are bound by most solemn agreement, and by every consideration which can have influence on virtue and patriotism. The withdrawal of their confidence, which no good man can disregard, and the refusal to continue him in his station, when his term expires, is the constitutional mode of punishment, and it is enough for the protection of their rights. There is no danger that the known wishes of the people of the Legislature will have too little influence upon the Senator, but rather the reverse. What tie is there, in merely human action, upon the ambitious or the virtuous man, stronger than is afforded in this case. The desire of the approbation of friends—of the kindness and courtesies of life among neighbors—of the support and respect of fellow-citizens—all the hopes of political honor, and fame, and distinction among contemporaries, call upon him to oblige and obey those who have so eminently trusted him—whose favor and confidence, if they have not made him what he is before the world, have at least enabled him to exhibit, upon a wider circle, his capacities to serve his fellow-men. Can he, will he, lightly regard these bonds? The danger is that he will yield to them too much: that, in cultivating their wishes, he will forget, in his love for his own narrow portion, the more expanded interests of his whole country. He will yield to them, wherever he can yield, without the sacrifice of his most solemn convictions of duty. Hence in matters of expediency—on all occasions except where he believes that the constitution will be violated, or the permanent and dearest interests of the people will be affected or destroyed—he will give himself to the wishes of his immediate constituents.

I did so, Mr. President, at the last session, while in the act of disobeying instructions in relation to the public treasury; and if I justly estimate my own feelings and sense of duty, there is no occasion, when either questions of expediency or even of constitutional law may be involved, on which I would not defer much to the deliberate opinions of the Legislature of the State, and always receive, consider, and treat them with the deference to which they are justly entitled; and with an anxious desire to conform my actions to the standard which they prescribe. If they related to matters of expediency and policy, I could, in most instances, be able to yield my doubts to their judgment. I could rely on their knowledge, especially in local matters and the peculiar interests of the people of the State, and their wishes would strongly influence me on every subject. The case to which I allude is an example. A provision of law was proposed; I doubted its propriety, and feared lest it should be made to serve the purpose of creating a place for a political partisan, who might use its emoluments and advantages for party and electioneering purposes. But it was connected with the convenience of the people of the State, in their transactions under the revenue laws, and I yielded to their wishes and instructions. But when I am instructed to violate the constitution, to erase the journals, I must pause and disobey. But is this, Mr. President, a denial of the powers and rights and sovereignty of the people? Does not the doctrine I urge maintain these rights and that sovereignty against those who would usurp them? Whose will is to be obeyed--that of the people, or of their agents, the members of the Legislature? And how is the will of the people to be known? In their highest and most solemn act; in their written expressions; in their charter; in the constitution which they have formed for their own government, and made to guide and control their agents. And shall we disregard this general, almost unanimous, will of the whole united people, at the suggestion and command of a small portion--of a few--for temporary or party purposes? It is impossible. When I believe, with sincere and deep conviction, that the Executive has violated that will--that constitution--trampled upon the written laws of the land, and assumed powers most dangerous to the liberties of the country, and never granted, nor intended to be granted, to the Chief Magistrate of the Union, shall I, at the command of a small number of my constituents, record my approbation? When, by a like command, I am directed to expunge from our journal a portion of the legislative history of the country, although the constitution requires me to keep that journal sacred, must I obey? With my views of these questions, I should be recreant to duty, regardless of the highest and holiest obligations which can rest upon

the conscience, a traitor to my country and to liberty, if I permitted myself to obey. I will not. I will dissent from the dangerous doctrines of encroaching power, and record my votes where they cannot and will not be expunged until our constitution shall have become a dead letter, our institutions be broken down, our liberties held by the tenure of one man's will, and our effort at free government the scorn of mankind. Thus having acted, I shall abide the issue in patience, and, I hope, with somewhat of firmness. I would most cheerfully retire from the painful contest in which I am engaged; but, if I do so, I must acknowledge the principles which I have condemned, and justify, so far as my individual act can have effect, the assumptions to which I have referred. I cannot make this acknowledgment, nor favor this justification. Should the prophecy of the Senator from Missouri be verified, should the waves of popular indignation roll on and overwhelm me and others who take the same views, so be it. I shall not have deserted the constitution of my country, with which its happiness, and liberty, and glory, must live or perish for ever.

VIRGINIA MILITARY LAND WARRANTS.

The Senate then considered, as in Committee of the Whole, the bill granting an additional quantity of land in satisfaction of unlocated Virginia military bounty land warrants.

Mr. CLAY opposed the bill, on the ground that the number of acres appropriated would not be sufficient for the purpose of satisfying all these claims; we did not know when we should ever stop. The gentleman from Virginia [Mr. TYLER] informed him, formerly, that the last appropriation would be sufficient, and yet we appeared to be no nearer the end of this business than we were then.

Mr. EWING said he would much rather appropriate the sum of $687,500, instead of five hundred and fifty thousand acres, and then we should know what we were about. He was opposed to the bill.

Mr. LEIGH made some remarks in favor of the bill. He said this appropriation could not be considered as made to Virginia, any more than to Ohio, Kentucky, or Tennessee, for not one-twentieth of these claimants resided in that State.

Mr. TYLER said, if the original appropriation of five hundred thousand acres was just and correct, a further appropriation ought to be made to cover all the claims, even if it should amount to five millions of acres. The report made on the subject showed that the great mass of these claims were already satisfied, and he did not think we would be much troubled on the subject hereafter.

Mr. CLAY said that the main cause of this great increase was in consequence of the bills passed giving pension and bounty lands, &c. Since the passage of the act of 1830, they have found in the attic story of the Capitol a large mass of revolutionary papers, out of which the greater part of these claims have sprung. There seems to be no end of these claims; he was willing to vote for the five hundred and fifty thousand acres, provided it was to be the last.

Mr. POINDEXTER offered an amendment requiring all claimants hereafter to file their claims in the office of the Commissioner of the Land Office within two years, or their claim shall be barred.

After some remarks by Mr. TYLER and Mr. CLAY, the amendment was rejected.

On motion of Mr. LEIGH, the blank was filled with six hundred and fifty thousand acres.

On the question, Shall the bill be engrossed and read a third time?

Mr. HILL asked the yeas and nays; which, being ordered, were as follows:

YEAS—Messrs. Benton, Bibb, Black, Calhoun, Clay, Cuthbert, Ewing, Goldsborough, Hendricks, Kane, Kent, King of Alabama, Leigh, Linn, Mangum, Moore, Poindexter, Porter, Robbins, Robinson, Silsbee, Southard, Tomlinson, Tyler, Waggaman, White—26.

NAYS—Messrs. Hill, King of Georgia, Ruggles, Shepley, Swift, Tallmadge, Tipton, Wright—8.

So the bill was ordered to be engrossed and read a third time.

The remainder of the day was spent in the consideration of bills from the House; when

The Senate adjourned.

SATURDAY, FEBRUARY 28.

The VICE PRESIDENT communicated the credentials of Hon. BEDFORD BROWN, elected a Senator from North Carolina, for six years from the 4th of March next.

GENERAL APPROPRIATION BILL.

Mr. WEBSTER, from the Committee on Finance, reported a bill from the House, making appropriations for the civil and diplomatic expenditures of the Government for the year 1835, with amendments.

Mr. W. made some explanations concerning the omission of the appropriation for the West Point Academy, both in the army bill and the present, stating that the committee had been impressed with the belief that a distinct bill on that subject would have come from the House. As that had not been done, the committee had thought it best to wait for the instructions of the Senate as to the proper course to be pursued, as it was possible the House might yet act upon the subject.

The amendments reported were then concurred in. Some others were moved and agreed to, and the bill was laid upon the table for the present.

O. B. BROWN.

Mr. EWING rose and said that, shortly after the report of the Committee on the Post Office and Post Roads was presented to the Senate, an address of O. B. Brown appeared in the Globe, and has since been copied into most of the other papers in the city, containing charges of grave import against the committee. As to his statements which do not touch the general course pursued by the committee, I shall not notice them. His testimony, and that of the witnesses who speak of his conduct as a public officer, are published with the report, and all who desire it can satisfy themselves on those subjects. There are, however, two of his statements, as to the course adopted by the committee, in the examination, which I think it proper here to notice.

He says that he was "denied by the committee the privilege of being heard in his own defence, or even of being informed of an accusation against him before he learned it from the report."

Now, sir, on this subject, I can only say that it was the opinion of the committee that all persons implicated by the evidence which they took should have information of all that was alleged against them; and that they should be heard, and allowed to produce evidence in their own justification. The mode of communicating this information was a subject of frequent discussion between some of the members of the committee, and it was at last settled that the chairman should exercise his own sound judgment and discretion in giving this information. This was not by any formal order, but precisely in the way in which the chairman thought he ought to be authorized to communicate to any and each of the officers, and each individual implicated, all the information that might be necessary to give them a full opportunity for explanation. I never inquired of him what information he saw fit to give any one under this

authority; but Mr. Brown was called and permitted to testify in exculpation of his own conduct, and of the course of the Department, on every subject on which the chairman thought proper to call him. The volume of his testimony, which accompanies the report, will show this fully; especially when it is known that he never was called, except by the request of the chairman, to explain some transactions in which he or the Department seemed to be implicated.

The second allegation which I have thought necessary to notice is as follows: "When under oath before the committee, I was not advised of any points on which I was to be examined, nor the object of any inquiry made; and, after answering all the questions which any member of the committee thought proper to propound, I was not permitted to hear the testimony read over, to know whether it was taken down correctly, or to correct any erroneous impression which it might be calculated to make."

The latter clause of this statement is wholly contrary to the fact. The chairman conducted this part of the business of the committee, and I observed that he frequently, though not always, asked the witnesses to read, or hear read, their testimony before it was signed. He generally did so, if the statement was long or complicated. The question was, I believe, always written down and read to the witness before he answered, and the answer was always read over to the witness after it was written, before it was passed by; and I know there was no case in which a witness was refused permission to read, or to hear read, his deposition before he signed it. I wish the chairman to say what he understands to have been the course pursued by the committee on these subjects.

Mr. GRUNDY remarked that he would state all he recollected upon the two points referred to by the Senator from Ohio, [Mr. EWING,] and I can make myself better understood by noticing, in the first place, the point last named.

As chairman of the Committee, the form of proceedings seemed to devolve upon me. I, of course, when a difficulty presented itself, consulted the other members. The practice in relation to the examination of a witness was this: when he presented himself he was sworn, a question was then put to him by a member of the committee. I immediately stated to the witness that he was not then to answer, but might consider what his answer should be until the clerk wrote down the question and read it to him. After the question was written and read by the clerk, the witness gave his answer, which was written down and read to the witness and the committee. After the testimony of a witness was gone through, I stated to the witness that, if he was satisfied with his evidence, as read to him, he could then sign his deposition; and if he did not feel satisfied, he could have it read to him by the clerk, or read it himself. In some few instances, where I was not sure that the answers of the witness, as written, conveyed his true meaning, I named to the witness that he had better take the deposition and read it over himself before he signed it, and this was sometimes done. The practice, as I have stated it, was generally pursued, and I have no recollection of a departure from it in the case of Mr. O. B. Brown. Of one thing I am confident, no witness was ever refused an opportunity of reading his testimony, if he requested it.

2d. As to the opportunity afforded to persons implicated or affected by testimony taken by the committee.

This was, to my mind, a very delicate subject. To prevent the proceedings of the committee from assuming the character of a trial, rather than an inquiry, and at the same time to procure the introduction of testimony which might place transactions on their true ground, was a subject of frequent conversation among the members. At last it seemed to be understood that I might act upon that subject according to my own discretion, taking care that no improper use should be made of any communication I might make for the purpose of obtaining the objects in view. Under the authority conferred on me, I did not feel willing to disclose what any particular witness had sworn; but stated, for instance, to Mr. Reeside, that the order of the Postmaster General was to carry a daily mail from Bedford to Washington, (in Pennsylvania;) that the Department had so paid for it; that the proofs taken did not show a performance on his part, and if he would name any witnesses who could establish his performance, they would be summoned; and in this way witnesses were brought forward and examined upon several cases investigated by the committee.

As to Mr. Brown's transactions with Mr. Porter, he did intimate a wish to know what had been sworn by Mr. Porter. I did not feel at liberty to tell him, but stated that I intended to call on him as a witness, and he could tell all about it. My reasons for not stating to Mr. Brown what Mr. Porter had sworn, were—1st, That it would be disclosing the testimony of a particular witness; and, 2d, Mr. Porter and Mr. Brown were the only persons who had a knowledge of the transactions, and I thought the surest way to arrive at the truth was to let each give his own account, without knowing what the other had said. I will further add, that I was present at the examination of every witness whose testimony was taken by the committee during the whole investigation.

Mr. ROBINSON said, as a member of the Committee on the Post Office and Post Roads, indisposition had prevented him from being present during the whole of the investigation. But, upon no occasion, so far as came within his knowledge, was any witness denied the privilege of reading over the testimony, after it was taken down by the clerk, before the witness signed it; and well recollected of many witnesses so doing.

Mr. SOUTHARD remarked that he had a perfect recollection that the witness referred to (Mr. Brown) did, on more than one occasion, read over the testimony which he had given, as it was taken down by the clerk of the committee; and that he also did, on one or more occasions, decline reading it, because it had been taken down as he wished it, and had been read to him. If he did not read every part of it, it was his own fault. He was, on no occasion, in my presence, refused permission to read it.

This witness was never taken by surprise, so as to be obliged, on any point, to give an answer hastily. Whenever he had any hesitation, or desired to look at books or papers, or refer to the officers of the Department, he was permitted to do so—frequently had such permission, and availed himself of it—sometimes delaying an answer for one or two days. And it also sometimes happened that he was directed to make an examination of papers and books, when he had not expressed any desire to do so.

Mr. CLAYTON said he had warned the members of this committee not to suffer the opportunities which the session offered them to pass, without their unanimous contradiction, on the floor of the Senate, of all such aspersions upon them, and misrepresentations of their conduct while engaged in this investigation, as they had just exposed. He had heretofore had some experience of the injustice done to those who engage in such investigations. He was a member of this committee during the last session, and concurred in the report of the majority made near the close of that session; and, after the adjournment of Congress, he had been astonished at the number and enormity of the misrepresentations made through the party press, sustaining the Department and arraigning the conduct of the committee. But, sir, (said Mr. C.,) at the last session a committee had been appointed by the other House to re-examine the matters we had

inquired of, while the Senate's committee was also directed to proceed with the investigation; and though grossly traduced and calumniated as the committee was, pending the last election, by the party press connected with the Department, for what had been done, yet I was content to bear this abuse at the time, believing that justice would eventually be done to us by an honest public, when the result of the examinations of all parties should be fairly communicated to that public. Sir, our report has been re-examined, and the result has been that the different committees have now carried their condemnation of the conduct and management of this Department far beyond the point at which we had arrived last year by that investigation, for which we were so grossly calumniated. What has been the consequence to those who made the late reports? Sir, even the majority of the committee in the other House, composed as it was of the political friends of the Executive, had no sooner presented their report, condemning the outrageous misconduct of the Post Office Department, than an attempt was made to denounce that majority; and the conclusions to which the honorable gentlemen who thus reported had arrived were also declared to be the results of party discipline and party spirit. Yes, sir, the very men who, it was confidently declared last year, would expose our errors, had confirmed our judgment, and though reluctantly driven to this result, a portion of the press has denounced them, also, as acting merely from party motives! What justice, then, have my friends on this committee, appointed by a persecuted Senate, to expect from such sources? Sir, I warn them again that the bloodhounds of the political kennel, which is maintained on the spoils of victory, will be let loose on their trail the moment they shall leave this city, and forego, for six months longer, an opportunity of exposing every falsehood against them, which is now hatched, or undergoing the process of incubation. Let them stand on the alert, and resort to their associates on the committee, as well as every other source within their reach, for a justification of their course while they have an opportunity to do so. The moment the session closes leaves them powerless and defenceless, while they present a shining mark for the envenomed shafts of the most rancorous and dangerous of all party spirit—that party spirit, sir, which contends for pay.

ELECTION OF PRINTER.

Mr. PRESTON moved that the Senate proceed to the election of a printer, on the part of the Senate, for the next Congress.

Mr. CLAY said he had made some opposition to this motion on a former occasion, in the expectation that the House would, by this time, have chosen their printer. As they had not done so, he now waived any further objection to the proceeding.

Mr. BENTON said he intended to move, contemporaneously, for the consideration of his joint resolution to repeal the joint resolution of 1819.

Mr. POINDEXTER hoped the Senate would not go into the consideration of the joint resolution; he was fearful of three hours' speeches.

Mr. PRESTON expressed his disposition to accommodate the gentleman from Missouri, but the resolution for electing a printer was offered two weeks ago, and if the law was to be complied with, there was no fitter occasion for it than the present. He therefore persisted in his motion; upon which

Mr. WRIGHT demanded the yeas and nays; which were ordered.

Mr. BENTON said he had been quite unfortunate for two sessions past in his endeavors to get up his joint resolution. Last session he failed in getting it up, and he was no more successful at this: for, when he introduced it, and it was referred to a committee, they reported it back again, saying there was no occasion to act upon it. Mr. B. said, being in the minority as he was here, and having twice exerted himself to get a decision from the majority on the question of repealing the joint resolution of 1819, he now gave notice that we had no right to go into this election; that all proceedings under that statute are as a dead letter; and that whatever we do with regard to the choice of a printer for the next Senate he considered as null and void, and that it would be the duty of the next Senate, unless they were disposed to acquiesce in the choice, to disregard the election, and have their printing done as they shall think proper. He thought the course which was pursued in 1819 for the purpose of having the printing done, was not the most advantageous for the country. We have had lamentable proofs since of what it has cost us—perhaps not less than $130,000 at the last session; and the ingenuity of printers has been put to its utmost stretch to find out old objects for employment upon, the effect of which is to sustain party presses during a long vacation. In this, and in this only, the election of a printer answers a good purpose. Gentlemen have made, and are daily making, complaints of abuses in other branches of the Government, when we have no occasion to go out of our own body to search for them. They exceed here all the other branches of the Government put together, including the Post Office. When large objects come forward, with propositions to print, and inquiries are made as to their utility and expense, some gentlemen are always furnished with an answer, that it is be done in so many days, and at such a price, and, when it is paid for, it sometimes amounts to one, two, three, and four times as much. He wished the Secretary would say what was the amount of the new appropriation for the printing of the Senate in the bill which had just been up, and whether for specific or general objects.

[Mr. HILL observed that there was more than one item.

The Secretary read the amendment in the bill—$20,000.]

Mr. BENTON resumed. He believed we contended here the other day, most manfully, from the morning till the stars appeared in the evening, making head against an appropriation of some $15,000 for the establishment of branch mints. We fought manfully against an appropriation which is intimately connected with the currency of the country, in which the people have a direct interest. But here appropriations of 30 or $40,000 are made for printing, with scarcely an inquiry into the amount. And where are those books for which these enormous expenditures are made? Piled up in your ante-room against the wall. Too numerous to remove, and, like the Vicar of Wakefield's picture, too large to be got up, there they lie piled up against the wall. If we must go on in this way, it will be necessary after a while to build an additional wing to the Capitol to hold them. These great abuses have their root and their origin in the appointment of these public printers, who are indefatigable in their exertions to find out fat jobs for themselves for the vacation, and there can be no sort of doubt that, if this could have been foreseen by those who passed the joint resolution in 1819, the proposition would not have received the slightest countenance. The committee of '19 thought the expenditure then was large, and introduced that joint resolution as an experiment only, in the hope of correcting it. What would be the astonishment of the survivers of that committee, to see an expenditure of 140 or $150,000 a year founded on their act. Their astonishment would be excessive that we had not got rid of an experiment which had worked so contrary to their views and the perpetuity which has attended it. The

House has thus far declined acting on their resolution, and if that body have decided that to elect a printer now would be an encroachment upon the rights of the next House, ought this branch to act in contradiction to them? Ought we not to postpone that which is in itself an evil, when so good an example has been given us? The next Senate is competent to provide its own printer, and we can leave the Secretary of the Senate, in the mean time, to have the printing done by jobs. Mr. B. considered the election now as null and void, and he wished his voice to go forth against it—that the next Senate were no more bound to receive a printer imposed upon them by us than they were to receive the ink, stationary, or wood, that we might provide them, and although they might acquiesce in receiving it, yet, if they did not like it, they might reject the whole of it. So with regard to a printer. If we should elect a man who might be disagreeable to them, they might say they would have no printer, or they would have their printing done on contract of the Secretary, by job. Although the Senate is a permanent body, yet the persons employed by it are not so. Mr. B. said he, for one, would not submit to the imposition; and if a disagreeable man should be imposed upon him by men who were just leaving their seats, every effort should be made to rout him from his place. Ay, to rout him from his place; and if that did not succeed, he would try to prevent his obtaining enormous jobs; and he now gave notice of that intention, so that no blame or censure could attach to that body.

Mr. PRESTON said that when the joint resolution of the honorable gentleman was referred to the Judiciary Committee, his attention was turned to the history of the printing of Congress; and he found that in 1819 a joint resolution was passed, regulating permanently the mode of getting the printing of the two Houses executed, so far as the prices were the subject of regulation; and the practice has been to elect by ballot ever since. Whatever doubt there may be as to the interpretation of the resolution of 1819, there can be none as to that of 1829, because it re-enacted that of 1819, and required the printing to be done by a printer who was to be elected by ballot. The practice, then, was of fourteen years' standing; and it was sustained by a joint resolution of the two Houses. The gentleman from Missouri says that this Senate has no right to impose a printer on the next Senate; but in 1829 the honorable gentleman sustained the principle of imposing a printer on the next session; and now, for the first time, is this practice pronounced illegal and discourteous to that body. The honorable gentleman says, too, that great abuses exist here, which are not exceeded even in the Post Office. Great abuses no doubt exist in every department of the Government. But if the whole sum for printing here were wasted and thrown away, it could not be compared to the abuses in the Post Office. But the increase in the whole expenditure of the Government is in the same ratio as the increase here. In 1819 it was from 15 to $20,000. Now strike out the printing of these land office documents, and it is not double that of 1829. In other branches, the printing has increased in the same ratio. But the Senate is in opposition to the President and the House of Representatives; and it is necessary to appeal to our common masters; and are we, then, to retrench here, and give up the whole field of public opinion to them to operate in. The President and the House of Representatives each incur greater expense for printing than we do. We are bound to send information of our doings to those who sent us here—it is extremely necessary. The press is used for the purpose of sending abroad *ex parte* information, and we are bound to counteract such proceedings. He was disposed to correct abuses here as much as any gentleman, and would be glad to see the public printing done independently of the public press of the country, and would gladly go for a public printing press, if it was practicable. The honorable gentleman's objections to electing a printer have a twofold effect. First, that the printer solicits useles jobs; and, second, that the Senate grants them; and that these abuses are the necessary consequences of electing a printer. If this be so, he was willing to reform the evil. He would not vote for any measure, but upon a conscientious conviction that the public welfare required it. He was willing to reform at home first, and to begin upon his own friends too. But if gentlemen are willing to reform here, let them go to reform the executive printing; let them begin at the White House, and he would be very glad to see the honorable gentleman's talents in saving the money of the country employed in that quarter. It is proper, therefore, to proceed to this election now; the present printer has a large and expensive establishment—he has a large capital employed, and if he is not to be the printer, he ought to know it. But, whether he is elected or not, the successful person ought to make his arrangements—he did not know what the result might be; he hoped an individual of his politics might be chosen—he trusted he would, but he wished it might be terminated in some way.

Mr. BENTON said the plan he would propose for having the public printing done hereafter, was the one he should read. [Mr. B. then read a passage from the report of the committee of 1819, in favor of the establishment of a national printing office.] This, he said, is the way the British Parliament does its printing, and it is the best in the world. He said, when up before, that the abuses of printing in the Senate exceeded that of all the other departments of the Government, the Post Office included; and this is to be dated from the point at which we started. In 1819, the total for the Senate was $8,000, and for the House 15,000. What is it now? He did not know, nor did he believe any body else knew. For here, in the general appropriation bill, are some $20,000 for arrearages. What is the increase of $120,000 beyond $8,000? It is not quite 20 to 1, but it is 16 or 17 to 1. Now, in what department of the Governmnet will you find an increase of 16 or 17 fold? Mr. B. said the honorable gentleman from South Carolina wanted him to try to reform at the White House, or some of the other departments. But how should he succeed there, when all his efforts here, although aided by the influence of the gentleman, are so unsuccessful? If, with the assistance of those who preach retrenchment here, he could effect nothing, how could he do it there? Mr. B. said he had taken his stand upon the inherent right of each House to provide its printing, fuel, and stationary. Here we have ordered a document to be printed of some 4,000 pages, 3,500 of which have been delivered. Now, what use can be made of it? He had not looked into it, and he had neither seen nor heard any reference made to it. No extra numbers of it have been struck off. Only a single copy for distribution among the members. And as regarded the documents, those of the last year, he believed, had never been distributed yet; he never saw his quota, though perhaps they may have been sent to him to St. Louis. And how many of these documents (the Post Office reports) will each member send away? After sending some 50 or 100, the rest are an encumbrance on their hands. The gentleman from South Carolina very candidly admitted that he had another object in view in this movement—that he wished to keep up a partisan newspaper. Mr. B. said, if he misunderstood the gentleman, he would yield the floor to be corrected.

[Mr. PRESTON said, if printing was used elsewhere to sustain party presses, he would consider it but fair to

elect a printer on the same ground. He would vote for a printer who corresponded in politics with himself, while others disavowed the intention of making jobs.]

Mr. BENTON resumed: Good! The honorable gentleman would do something here countervailing what was done elsewhere. He, Mr. B., would wash foul linen for no party in the world. If corruption exists among partisan printers, and the gentleman denounces it, and they are sustained by corrupt jobs, we will not countenance it. He, Mr. B., came here in 1820, and the printing went on then as it did previously, and therefore he did not inquire into it. As regards the argument derived from the great expenses of the person whom the gentleman proposed to elect, what is it but an argument in favor of perpetuity of office? If he has made his calculations upon the perpetuation of his party, is that our concern? He was elected for two years, and he has kept it, and it is not our affair. If his large establishment shall be paraded before us again next year, Mr. B. said he should pay no attention whatever to it. And if gentlemen will put an officer upon the next Senate, not acceptable to them, it will be the duty of the next Senate to vindicate itself. It is time for gentlemen to take warning now.

Mr. PRESTON said he could not permit the honorable gentleman from Missouri to put him in a position to defend either here or elsewhere what he did not defend; he knew nothing at all about this land document. And if jobs have been improperly given, the gentleman would not be more prompt than he was to correct it. Nor did he say that corruption would bear him out in corruption. Mr. P. said, wherever it existed, he was its enemy. But if the political complexion of the Senate be changed, who will gentlemen elect as their printer? A man opposed to the Executive? No. The gentleman says each House has the right to appoint its own officers, under the constitution. Certainly it has. But it is competent for both Houses to fix certain principles by which such appointments shall be regulated, and that has been done for this case. He was in favor of a national printing office. But it was useless to think of it now, there was not time to mature and effect such a thing at the present session.

The question being on proceeding to the election, it was decided in the affirmative by the following vote:

YEAS—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Webster—27.

NAYS—Messrs. Benton, Brown, Buchanan. Cuthbert, Grundy, Hill, Kane, King of Georgia, Linn, McKean, Morris, Robinson, Ruggles, Shepley, Tallmadge, Tipton, White, Wright—18.

The Senate then proceeded to ballot for printer, when the following was the result:

Gales & Seaton, - - - -	12
Blair, - - - - -	2
Duff Green, - - - -	15
Blair & Rives, - - - -	17
Greer, - - - - -	2

No person having received a majority of the whole number of votes,

Mr. BENTON moved to postpone the subject to the first day of the next session, and, on that question, demanded the yeas and nays; which were ordered, and the question was determined in the negative by a vote of yeas 18, nays 28, as follows:

YEAS—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Georgia, Linn, McKean, Morris, Robinson, Ruggles, Shepley, Tallmadge, Tipton, White, Wright—18.

NAYS—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster—28.

The Senate then balloted eight times successively without effecting a choice. The ballots were as follows:

	2d.	3d.	4th.	5th.	6th.	7th.	8th.	9th.
Gales & Seaton,	13	16	16	17	18	19	20	18
Blair & Rives,	16	13	17	12	16	14	13	16
Duff Green,	15	15	13	11	10	11	9	10
Blanks,	1	1	0	0	0	0	0	0
Mrs. Royall,	0	1	1	1	2	1	4	1

Mr. POINDEXTER then suggested that it must be seen by every Senator that we could not elect a printer now. He would not make a motion, but he thought we had better postpone the matter till Monday next.

The Senate then balloted five times successively without making a choice. The ballots were as follows:

	10th.	11th.	12th.	13th.	14th.
Gales & Seaton,	22	23	20	23	22
Blair & Rives,	17	15	9	16	15
Duff Green,	9	6	17	7	8
Blanks,	0	0	0	0	1
Mrs. Royall,	0	1	0	0	0
William A. Rind,	0	2	2	1	2

Mr. WRIGHT then moved that the subject be indefinitely postponed, and, on the question, demanded the yeas and nays; which were ordered, and are as follows:

YEAS—Messrs. Benton, Brown, Buchanan, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Morris, Robinson, Ruggles, Shepley, Tallmadge, Tipton, White, Wright—18.

NAYS—Messrs. Bell, Bibb, Black, Clay, Clayton, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster—29.

So the question of postponement was disagreed to.

The Senate then balloted three times more, when it appeared that Gales & Seaton received a majority of the whole number of votes, and they were accordingly declared duly elected. The ballotings were as follows:

	15th.	16th.	17th.
Gales & Seaton, - -	22	23	27
Blair & Rives, - -	14	16	14
Duff Green, - -	7	6	3
William A. Rind, - -	3	2	2
Blank, - - -	1	0	0

Mr. BIBB then moved to rescind the joint rule which prohibits the transmission of bills from one House to the other on the same day.

After some opposition from Mr. EWING and Mr. WEBSTER, the motion was laid on the table, upon a division: Ayes 21, noes 13.

On motion of Mr. KING, of Alabama, the Senate, at 4 o'clock, took a recess till half past 5.

EVENING SESSION.

The Senate spent the evening chiefly in the consideration of bills from the House of Representatives, a large number of which were finally gone through with.

The Senate then adjourned, at about half past 9 o'clock.

MONDAY, MARCH 2.

GALES & SEATON'S REGISTER OF DEBATES.

Mr. POINDEXTER submitted an amendment to a resolution with regard to furnishing Senators with Gales & Seaton's Register of Debates, and asked for its immediate consideration.

Mr. FRELINGHUYSEN moved that the Senate take up the resolution from the Committee on the Library.

Mr. BENTON opposed the present consideration of the resolution as to the Register of Debates, and called for the yeas and nays on the question.

The vote was in favor of Mr. POINDEXTER's motion: Yeas 20, nays 13.

Mr. POINDEXTER moved to amend the resolution by adding a clause for the supply of Senators with that part which was now published.

Mr. BENTON asked for the yeas and nays on the amendment: Yeas 16, nays 12.

Mr. BENTON said he would call for the yeas and nays on every motion connected with the heavy business which the Senate would have to do this day on the question of printing; and the time would be well spent which should be devoted for that purpose.

Mr. LEIGH meant to go so far as to award the books to those Senators who had not received them.

Mr. BENTON said that the system led to an endless purchasing of books. From the time the system was commenced there were propositions to purchase books for the new Senators, so as to put them on an equal footing with others; and when back volumes had to be purchased, the Secretary of the Senate had to give for them any price which the holders thought proper to ask.

Mr. FRELINGHUYSEN said that when the resolution was first adopted, it was the apprehension of many that it was to be a standing resolution for the purpose of giving to the American people a historical record of the debates in Congress. The misfortune was, when gentlemen took an invidious view of the subject, that Senators were represented as voting books for themselves. He hoped that every Senator had more respect for himself than to vote for the sake of himself merely. This was not the principle on which Senators voted in these cases; it was for the benefit of their constituents, and of the public. Under the conviction that the resolution was a standing one, these books were provided—they had been printed under that impression, and should not be allowed to lie on hand. Mr. F. referred to the expensive works produced under the auspices of the British Parliament at the national expense, amounting to hundreds of thousands of pounds sterling. They looked upon these publications with the enlarged views of a literary concern. He, Mr. F., had firmness enough to vote for useful publications, unbiased by paltry considerations. It was the best mode of keeping a record of the debates, and he was not to be deterred, by the continued calls for the ayes and noes, from giving his vote according to his opinion.

Mr. LEIGH would not have supposed it to be in the power of malice to invent any charge so absurd; but he was adverse to this mode of publishing our debates, because he knew that such a charge would be made, and that many would believe it.

Mr. POINDEXTER said a few hours would now close the present session, and it was uncertain whether he should again take his place in the Senate. He, therefore, was not one who would profit by these books. Gales & Seaton had printed the books under the impression that they would be taken, and he thought that in fairness they ought to be. If the Senate were now to give notice that it was not intended to purchase the next volume, they would print it or not, at their own risk; but the ninth volume having been prepared under the idea that Congress would take it, it would be in a manner deceiving them to their injury.

Mr. BUCHANAN said he would vote for the resolution. He was a member of the other House when the resolution passed, and, up to that time, it was impossible to know what any gentleman had said upon any question. Such information, besides, was extremely useful to the public. After what he had said, he would never touch a book; but he would vote for the resolution, because no printer could get the publication up without the aid of Congress.

Mr. BENTON asked whether he was better off when he did not know what a member said at all, or when what he said was misrepresented. He gave his vote on an understanding held out in the prospectus of the work, which had been shamefully snd scandalously violated. Here Mr. B. read part of the prospectus, and went on to say that, for years past, the speeches of members had been suppressed, or given in an improper manner. Gales & Seaton's Register was an unfaithful history of the proceedings in Congress, and not to be relied upon by either side of the House. The speeches in favor of the bank were elaborated, and elaborate speeches against it were cut down to two or three inches in length. He wanted time to examine the book; to see whether what gentlemen had said was reported, or whether sentiments were put into gentlemen's mouths which they never uttered.

He spoke of the exertions used in England to make the reports of the debates correct, whilst here the printers did not avail themselves of the opportunity which the presence of members gave them to correct their reports, and those men who, two or three years ago, used to get him to correct his speeches, lately refused to insert a speech of his against the bank, although he offered to cut it down to one-half of its length. He again moved the indefinite postponement of the resolution.

Mr. BUCHANAN said that, if the gentleman would modify his motion to the first of the next Congress, he would vote for it. He was in favor of the Register of Debates, but the gentleman had made grave and serious charges against it, and if he should find that the gentleman was not mistaken, he would be sorry to spread such a publication over the country. The only deficiency which he had noticed was in a speech of the honorable Senator from New Hampshire, [Mr. HILL,] in which justice had not been done.

Mr. POINDEXTER and Mr. BELL opposed the postponement.

Mr. KING, of Alabama, would vote for the postponement.

Mr. BENTON having modified his motion, the question was put on postponing to the beginning of the next session, and lost: Ayes 18, noes 19.

Mr. KING, of Georgia, proposed an amendment, having the effect that old members should return their copies.

Mr. BENTON made some remarks, which were for the most part inaudible to the reporter. We understood him to agree with the amendment, but to object to the inconvenience which would be experienced in the transporting of so many volumes.

Mr. FRELINGHUYSEN thought the plan proposed by the amendment most exceptionable. Did the Senator [Mr. KING] wish to see members from the ends of the earth sending their books and libraries in cart loads to Washington? Was his object to produce the impression that all these books returned were, like a burden upon the conscience, to be disgorged, as if they had no right to them? It would be a wiser, a more judicious amendment, to propose that a bonfire should be made of all the books printed by order of Congress, and that the

members should all be forced to stand by and witness the conflagration.

Mr. POINDEXTER would give two reasons which weighed with him against the amendment: the first was, that it would violate a vested right; and the second was, it would be impossible to carry the measure into execution.

Mr. BUCHANAN hoped the consideration of this subject would be postponed; he was desirous of examining into the charges made, and for this purpose would move that it be laid upon the table.

A division took place, when the members on each side were found equal, upon which the VICE PRESIDENT gave his casting vote in the affirmative, and the motion was carried.

GENERAL APPROPRIATION BILL.

The Senate proceeded to the consideration of the amendments, made by the Committee on Finance, in the bill making appropriations for the civil and diplomatic service of the United States for the year 1835.

The amendment proposing to strike out the appropriation for a minister to Great Britain being taken up,

Mr. WEBSTER said that the office of minister at a foreign court was one of the highest and most important in the gift of the Executive. The nomination, then, of a foreign minister was a very grave matter; and, consequently, after he had received his outfit, it was desirable not to recall him. The office at this time, in the present state of our foreign relations, was one of great responsibility and consequence. The Committee on Finance could see no reason, therefore, why a minister to England should not be nominated during the present session; or, if not, why the nomination should not be postponed to the next session. It was well known that, for a considerable time past, the services usually performed by a minister of the first grade, have been executed by a diplomatic officer of the lowest grade.

For one, he believed no nomination would be sent to the Senate during the present session. Not since the adoption of the constitution had so long a period elapsed without there being a minister at the court of St. James, as in the present instance. What the committee proposed was to strike out the appropriation of a minister to England, for the reason that, if one were not nominated now, they saw nothing that induced them to suppose that a minister would be sent to England during the recess.

Mr. WRIGHT was opposed to the amendment of the Committee on Finance, of which he was a member. If the appropriation for a mission to England was stricken out, there could be no nomination during the present session of Congress, and, in the present state of our foreign relations, he was not willing to put it out of the power of this Government to send a minister to that country during the ensuing recess. He therefore asked for the yeas and nays. They were ordered accordingly.

Mr. CLAY rose to express his entire concurrence in the motion to strike out the appropriation for a minister to England. It was now near two years since a diplomatic officer of the first grade was at that court; and eight or nine months had elapsed since a minister was proposed to be sent, and the nomination was rejected. The Senate had been in session three months, during any one day of which time the President might have nominated a minister; but he had not chosen to do so. Then, with what propriety could it be said by the honorable Senator from New York, [Mr. WRIGHT,] that he did not wish by his action to prevent the Government from sending a minister to England between this and the next session? He presumed that the honorable Senator must be equally indisposed to encourage the President to send a minister to the court of St. James during the recess, against the wishes of a large portion of the community, and in violation of the constitution of the United States; and, at any rate, to be sent there without the concurrence of this body, without first ascertaining its wishes. He (Mr. C.) considered it a great misfortune that we had not a minister of the highest grade in Great Britain. Independent of the usual business he would have to transact, independent of the important affair which was now before that Government respecting one of the States of this Union, and independent of many other matters, there was every thing indeed which called for the appointment of a minister there.

Let gentlemen reflect for a moment what was the present state of things between the United States and France. The two countries had got into such a situation that it might be necessary to resort to mediation, and that mediation was much more likely to be secured by a minister of high character and standing, well acquainted with the wishes and feelings of his country, than by the person who now represented us at the court of St. James. There could not be a doubt that Great Britain, whatever might have been her feelings with regard to the United States, was at present anxious that the existing difficulties between this country and France should be amicably settled. He would repeat that that was his sincere belief. True, she might profit by a war; but there were many inevitable sacrifices resulting from it, and events growing out of such a calamity, which did not render war at all desirable. He would then say that there could not be a doubt that the intervention of their common friend, in the existing state of things between France and the United States, might have a very salutary and soothing effect. And precisely at this moment, when unpleasant feelings existed between our minister at the court of France and that Government, was a minister of the highest grade particularly required at St. James's. The President, however, as far as the Senate had reason to believe, (for no other motive could they assign or suppose,) had not chosen to send in a nomination for a minister to England this session, because there was not a concurrence between him and that body at the last session on the same subject. What other reason could be assigned or would be assigned? Was there any necessity for nominating a minister at the previous session? Why, yes; that would appear to be the case by the fact of the President nominating such a minister. Had that necessity at all diminished now? Had it not, on the contrary, much increased since that time? There could not be a doubt about it. Then, why not nominate a minister, and send the nomination to the Senate. If any gentleman—any of the leaders of the administration, (and he recognised the gentleman from New York [Mr. WRIGHT] in that character)—or any of those Senators who had taken part in that debate, knew any thing concerning this subject, he would thank them to state what it was. If any Senator would get up in his place and state on his responsibility that there would be sent to the Senate to-day or to-morrow the nomination of a minister to England, he (Mr. C.) should then be willing to wait for it; but, without such an assurance, and without, in point of fact, such a nomination were made, he would not vote to appropriate one cent. The Senate owed it to its own dignity, and that of the country, to refrain from doing so. It was due to the Senate, having, as it had, an equal participation in all appointments with the President himself, to forbear making any appropriation under the existing circumstances.

Mr. CLAYTON said that this was the same question which had been brought before the Senate three or four years ago, in reference to an outfit for a minister to France. He was against that appropriation, and he

should vote against this. There were two funds annually appropriated under the diplomatic head: one was for secret service, and the other was a contingent fund for the expenses of such appointments as it might be necessary to make during the recess. If $30,000 was not a sufficient sum for this contingent fund, he was willing to increase it to $60,000; but he was not disposed to vote for a specific appropriation for this outfit. He wished to leave the President to make this appointment on his own responsibility, if he chose to make it. He ought to make it on the responsibility he assumed to himself. If the President should make the appointment during the recess, under the clause in the constitution which invests him with the right, and should send the nomination to the Senate, at its next session, for confirmation, he (Mr. C.) would preclude himself from making any objection to the nomination, if he now voted an outfit and salary. It was not the wish of the Committee on Finance to throw any obstacle in the way of the Executive, but they were not disposed to anticipate his intention to send a minister to England by now making an appropriation. If it was necessary, in the estimation of Senators on the other side, to make an addition to the contingent fund, because $30,000 would not be sufficient, let them increase the amount to 50,000 or $100,000. But he insisted that the President should take the responsibility of sending a minister during the recess on himself. It was unfair to ask Senators to commit themselves in advance on the propriety of sending a minister to England. He entirely concurred in the importance of having a minister to London; but the President, if he thought it important, should make the nomination now. But the President had not done this. In his judgment, therefore, it appeared that there was no necessity for the appointment of a minister during the session. But, by the introduction of the clause for an outfit and salary into the bill, it seems that he thinks it may be necessary during the recess. He might, therefore, take the responsibility of the appointment during the recess, and then turn round on Senators and say, you voted for an outfit and salary for a minister, and now you say there is no contingency which requires that he should be sent. He would repeat that, if the fund was not now large enough, he hoped it would be increased; but he would not vote a specific appropriation for an outfit and salary unless a nomination was made.

Mr. BUCHANAN was opposed to striking out the appropriation from the bill. The Executive had his duties to perform, for which he was responsible; and the Senate had their duties, for which it was equally responsible. The President had asked this appropriation for a minister to England. The only question for Senators to decide was, whether they ought to make the appropriation? He did not know whether the Executive intended to nominate a minister to England or not during the present session. But there might be a necessity for his doing so between this period and the session of the next Congress; and he (Mr. B.) was unwilling to prevent this from being done, by declaring that the Senate would make no appropriation for the salary and outfit of a minister to England. He concurred entirely, or to a very great extent, with the Senator from Kentucky [Mr. CLAY] that the time was likely to arrive when it would be indispensable that we should have a minister at St. James's. Suppose our minister to France should be recalled, under any contingency; it would then, under such a state of things, be indispensable that the United States should have a minister at the English court, for the purpose of representing us, possibly, directly on the spot, or, at least, indirectly, through the British Government. He therefore could not understand the logic which first was presented to the Senate, that it was a proposition undeniable, that the appointment of a minister was necessary, and yet that the means for carrying it into effect should be stricken out. But the Executive, added Mr. B., may yet (during the session) send in a nomination. It was for us to make the appropriation, for which we were responsible to the country; and it was for the Executive to make a nomination or not, as his sense of duty may prescribe. Shall we, in anticipation of the President's not doing what he ought, refuse ourselves to do our duty? Certainly not.

Mr. CLAYTON observed, that he was by no means disposed to trammel the Executive, by advocating that the appropriation for a minister to England be stricken out of the bill. Did the Senator suppose that it was the intention or desire of honorable gentlemen to trammel the President? If he did, let him show them how it could be done by striking out this clause. He (Mr. C.) would point him out a clause in the bill that all were willing to pass—an appropriation of $30,000 for the contingent expenses of our foreign intercourse, for the very purpose of enabling the Executive, if he choose, to send a minister abroad in the recess. And he (Mr. C.) would again say, that, if that sum was not thought large enough, he would, for one, vote to increase it. But, he desired to state, that, if the Executive should think proper to send a minister abroad during the recess, he should take his salary and outfit from the fund at his disposal, and consequently become wholly responsible for making the appointment. If, for instance, then, the President should send an objectionable minister, who ought not to have been sent abroad, he might be rejected at the next meeting of Congress by those who had not been instrumental in sendng him abroad. They would not have committed themselves, inasmuch as they had not voted for the necessity of sending a minister abroad. But, on the other hand, if he (Mr. C.) should vote for a specific appropriation of $9,000 salary, and $9,000 outfit, he admitted, as clearly as possible, by such a vote, that it was necessary that the Executive should send a minister abroad during the recess. He was inclined to think that one should go abroad, however; but he insisted that, if one were to be appointed, the Senate should have the power of saying who should be that minister. He had no idea of sanctioning the sending of a minister to England during the recess, particularly as the Chief Magistrate had permitted so many months to elapse without sending to the Senate his nomination. Mr. C. would assert that such an omission was a violation of the constitution, and therefore ought not to be winked at.

Mr. WRIGHT could not see the propriety of the amendment. The Senator from Delaware was willing to do a thing indirectly which he could not consent to do directly. It was his (Mr. W's) opinion, that if the Senate increased the contingent appropriation ostensibly and avowedly for the purpose of authorizing the President to send a minister to England, it was the same thing as to make an appropriation directly to carry into execution that object. He was glad to hear the honorable Senator admit that there might be a necessity for this mission before Congress met again. That must be apparent to every Senator. He (Mr. W.) could not consent to any course now which would amount to a prohibition of this mission for nine months, from any mere presumption that another branch of the Government would neglect the performance of its duty. Much less would he believe that this other branch would not perform its duty, by sending in a nomination, if the appointment were now called for. He hoped that the appropriation would be made, and that the Senate would not take upon itself that responsibility which must otherwise attach to it.

Mr. CLAYTON said that there was a great difference between voting to increase the contingent fund, and

voting for an appropriation for a minister to England; because, in the first case, he was induced to believe there might be a greater fund required, and no expression of opinion was necessarily desired to be made on the subject. On the contrary, however, in the second case, he should have to vote in the most solemn manner in favor of sending a minister abroad. He was determined to put a constitutional check upon this matter. The President would see a difference between a distinct vote in favor of an outfit and salary of a minister, and a vote to increase the contingent fund, in which event he would have to take the money for those purposes out of the fund on his own responsibility, and have to decide upon the necessity of the occasion. He (Mr. C.) would say that, when a vacancy had happened, the President was bound to nominate an individual during the next sitting of the Senate. He was bound by what was due to himself, as well as to fulfil the requirements of the constitution, not to suffer a session to pass by without laying his nomination before his constitutional advisers and participators in the appointing power.

Mr. WEBSTER said, if the gentleman from New York, [Mr. WRIGHT,] or any one else, would say that there was a nomination to be sent to the Senate during the present session, he should then be in favor of making an appropriation. But the committee took the ground that, if a minister was to be sent to England in the recess, his nomination ought to be sent to this body prior to its adjournment, in order that it might exercise its concurrent power, its constitutional power, in regard to the appointment. And that, unless the nomination was made, the Senate ought not to agree to make an appropriation. As to the other cases, the appropriations for chargés to South America, as it was understood that nominations would be made, they were not stricken out by the committee. If the gentleman from New York would say now that a nomination for England would be made, he would withdraw the amendment of the committee, or he would be willing to introduce it again, should a nomination be made before the bill was returned from the other House. Otherwise, the Senate ought not to agree to the appropriation, but should sustain its constitutional powers.

Mr. CLAY said that he did not agree with the Senator from Delaware as to the propriety of making any increase to the contingent fund. He himself would not vote an additional cent to that fund. It was not very different whether the amount were taken out of the contingent fund, or out of the treasury under a specific appropriation. He thought the gentleman from New York [Mr. WRIGHT] had somewhat the advantage in the argument on this point. Eight or nine months had elapsed since the last nomination had been made to the Senate, and the President had had ample opportunity of sending in a nomination during the present session; therefore, what charge could be made against this body for having, in the discharge of its duty, determined not to make an appropriation, because it had a right to have a voice in the appointment of a minister to England, and entertained the opinion that one was intended to be sent without asking their concurrence? The President was as much bound to make a nomination as the Senate was to provide the necessary appropriation; and he had not done it, nor authorized any of his friends to say that he would send one in before the end of the session. Now, he (Mr. C.) would ask, was the Senator from Pennsylvania, or any other Senator, prepared to say that it was treating the Senate fairly to withhold a nomination now, and, after that body had adjourned, to send a minister abroad without asking its concurrence in the appointment? Was that a proper mode of administering this Government? Was it suitable? Was it correct? He might ask, was it constitutional? There were many who believed it was unconstitutional. But whether constitutional or not, it was highly proper that the Senate should have an opportunity of giving an opinion on the nomination before the individual was sent abroad. Senators were told they might reject the nomination at the next session, if they disapproved of it. But it was to be recollected that that course was always attended with inconvenience to the public and much expense. The honorable Senator from Pennsylvania had said he believed that, before the meeting of the Senate again, a minister would be sent to England. He (Mr. C.) did not know it, but he believed that would be the case. If the President had reasons for making the appointment in the recess, why did he not communicate them to this body, and at the same time send in his nomination? Why had he delayed nearly a whole session doing so, and left his friends, leaders or no leaders, in such an awkward predicament? Mr. C. concluded by expressing a hope that an appropriation would be made in another form. He was determined not to vote one cent for the salary and outfit of a minister to England.

Mr. BIBB remarked that there was now no minister to England, and yet we are called upon, said he, to make an appropriation for a nomination not yet made, nor likely to be made during the session. He could not vote for it. But why, asked he, are we called upon to vote this appropriation? It was an office not depending on their legislation, but on the laws of nations, and the President had the power to fill it. But how fill it? When in the recess—now mark the words of the constitution—"he shall have the power to fill all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." This clause was made to provide for a vacancy happening during a recess of the Senate; but it never was foreseen that the Senate would be called upon to make an appropriation for the salary of an officer to be appointed in the recess, when the President did not choose to make the nomination during the session of the Senate. What would be the effect of making this appropriation? It must be predicated on one of those estimates sent from the executive departments; and, therefore, shows that the President thinks a minister to England is necessary, though he does not nominate one to be appointed by and with the advice and consent of the Senate: therefore, if we vote this money, said Mr. B., we pass by the constitution, and give the President the sole power to act in this matter without consulting the Senate. Mr. B. admitted that he did once vote for an appropriation something like this, but under different circumstances. It was in 1813 or 1814, when the law created a great number of officers, and it was not supposed possible that the President could fill them all during the session, therefore he was permitted to fill them in the recess. But was this the case now? Was there any reason why the President could not have nominated a minister to England during the present session? Under these circumstances, to permit the President to make the appointment without the authority of the Senate, would be losing sight altogether of the constitution; and inasmuch as it would be virtually giving him the power to pass over the Senate, he, Mr. B., could not vote for the appropriation. As there was no minister to England, and had not been one for eighteen months past, and as the President had not thought fit to nominate one during the whole session, then almost over, it seemed to him that the Senate was bound to reject the appropriation, unless they were willing to surrender the whole of their prerogative into the hands of the President. He was not one of those who supposed it necessary to send ministers abroad when there was no particular negotiation necessary with a foreign Power; but, be that as it might, he would not give

to the President the unrestricted power to send abroad whom he pleased, and when he pleased, and to bring him home and send out another at his own discretion; by this means drawing all the power of appointment into his own hands, and creating all those extraordinary expenses in our diplomatic intercourse, which have been so much complained of. He would not then say, nor was it necessary that he should, whether a minister to England was necessary or not, though the President, he presumed, thought so, or there would not have been an estimate for the appropriation; but if the President thought proper to send abroad a minister without the authority of the Senate, he, Mr. B., was not disposed to give him the power to do so, and he should therefore vote against the appropriation.

Mr. CLAYTON could not incur the responsibility of not giving to the President sufficient means to carry on the Government, and perform his duties in the recess; and if the gentleman from Kentucky was prepared to refuse such sums as were necessary, he (Mr. C.) was not. While he agreed, however, that he was bound to give ample means, he would give them so that the responsibility of their application should be with the Executive, and not with him. It was the business of the President to decide whether he would make the appointment. He is responsible, and not me. It might not appear to be necessary to increase the contingent fund. He asked the chairman of the Committee on Finance the question. If it was, he would prefer to leave this specific appropriation out of the bill, and to increase the contingent fund. Suppose that the President saw great danger of an interruption of our relations with another country, which are now standing in so interesting a position, and thought it necessary to send a minister to England for the purpose of facilitating an intercourse with that other country, would it be right in him (Mr. C.) to refuse to make an appropriation which might enable the President to send a minister to England, in the hope that he might be the medium of mediation for the adjustment of the differences? He was not prepared to do this.

Mr. CALHOUN said the appropriation of the outfit and salary appeared to him neither more nor less than to aid the President in performing an unconstitutional act. If he (Mr. C.) had read the constitution aright, the Executive had no right to allow a session to pass over, after a vacancy had occurred, without sending in his nomination to fill the existing vacancy. And this appropriation was to be made for the purpose of enabling the President to supply a vacancy which had not happened in the recess! Every Senator knew the peculiar circumstances connected with this subject. They were all aware that a nomination had been sent to the Senate at the last session, and that it was rejected. Was it asked by this appropriation, then, that the President should be allowed to send a minister to England without first laying his nomination before this body? Senators could not be ignorant of what had taken place on a former occasion, and they might rest assured what would be done again if an appropriation should now be made. It remained to be seen whether the Senate would continue to deserve the high character for which it was already distinguished, as an independent, honorable, and virtuous body, by its action in the present instance. We have stood here, (continued the honorable Senator,) as barriers to resist the unconstitutional acts of the Executive. If we carry through this noble struggle as we ought--if we stand as a rock, firm and immovable, against these continual violations of the constitution, we shall be entitled to the eternal gratitude of our country. But, on the other hand, if we permit the dignity of this body to be trifled with and degraded, we shall prove ourselves recreant to the rights and honor of the States which we represent here, and no longer worthy to be their representatives. I trust the appropriation will be unanimously rejected; at least, certainly, by all those who take the same view of this subject which I do.

Mr. TYLER said that, when an encroachment was made on the constitution, let it be by whomsoever it might, he trusted he would be as ready to resist it as any Senator on that floor; but he could not in the course of his legislation there suppose that the President designed to violate the constitution. He (Mr. T.) would not act on that principle. He did not believe it became him so to act. He regarded the responsibility which attached to himself as well as that which belonged to the President. He would think it unkind did the President charge him, in so many words, with an intention to violate the constitution; and it would be equally unkind in him to make such a charge against the President; and, therefore, he should vote for the appropriation. He put his vote upon this ground, and no other. He would say, as a Senator in his place, that the constitution devolved upon him certain high duties. He held that, in the present aspect of our political affairs, there was no constitutional duty on the part of the Senate to make an appropriation; but it was politic to appropriate a sum sufficient to enable the President to send a minister to England, if he thought proper to do so. The Executive was bound to carry into effect his constitutional powers and authority; to send a minister to England by and with the advice and consent of the Senate, provided a vacancy should occur. He denied the President had any right or authority whatever, derivable from the constitution, to send a minister to England after the adjournment, and before the next session. He would go further, and say that, if the President were to appoint his (Mr. T's) own brother to this mission during the recess, he would, when the nomination came before him at the next session, reject the nomination.

He wished to be distinctly understood on that point. If the President should so far violate the constitution, (Mr. T. cared not whom the person selected might be,) as to send a minister to England during the recess; if, in truth, he should do that act, his (Mr. T's) vote would be recorded against it. It would be an encroachment on the constitutional rights of the Senate so manifest, that he would be induced to follow the example of the Senator from South Carolina, and resist it to the uttermost. But he did not feel himself authorized or justified in supposing that the Executive would pursue a course in contravention of the constitution of the United States. He had reason to think he would not. There had been two sessions and two recesses since the vacancy had occurred, and only one nomination had been sent to the Senate, and that was at the last session, and it was rejected. None had been made since. But why should he say that one would not be sent to the Senate before it adjourned—to-day or to-morrow? Why ought he gratuitously to assume that the President did not intend to make a nomination during the present session?

If the President was truly sensible of the high responsibility which attached to a minister to England, he would nominate an individual. Mr. T. would say that he would nominate, because he went for the presumption that what the President ought to do he would do. If not, he would be guilty of great neglect of duty. Look at our foreign relations—the situation in which we stand towards France--all, all pointed out the necessity of having our diplomatic corps complete. If, then, the Executive did not nominate a minister at the present session, Mr. T. held he would be guilty of great misconduct and neglect.

He (Mr. T.) thought that a minister to England was essentially necessary; it was highly proper that one

should be sent, and therefore he was willing to vote for an appropriation to carry that desirable object into effect.

Mr. LEIGH said he should not, any more than his colleague, indulge the presumption that the President would wilfully violate the constitution. But he should indulge the presumption that the Executive understood the constitution very differently from the honorable Senator and himself, and was of opinion that it was in his power, in the recess of the Senate, to fill a vacancy which happened in a former recess. And he (Mr. L.) indulged the presumption, for the reason that the President had done the very deed, (which some honorable Senators wished to prevent in future,) for he had sent Mr. Livingston to France, two or three years ago, in the recess. Now, it was his (Mr. L's) opinion, right or wrong, that the President had no authority, under the circumstances of the case, to make that appointment in the recess; but the President did not so understand the constitution. Mr. L. should, for that very reason, vote against the appropriation; and he should vote for it in no form or shape in which the President could thereby be enabled to violate the constitution, though it might not be a violation according to the President's interpretation of it. He should be willing to vote for an appropriation, with a proviso that no money should be paid unless the minister was appointed by and with the advice and consent of the Senate. He never would give his vote for this appointment under any other circumstances, seeing that the President differed from him in his construction of the constitution, which completely surrendered the concurrent power of the Senate.

Mr. CALHOUN said that he was not in the Senate when the debate commenced. He asked if the President had desired this appropriation? Or had he expressed a wish to make any appointment?

Mr. WEBSTER replied that the committee had no intimation of the desire of the President but the simple estimates from the Department. As he had before said, there were some appropriations made for chargés, on the understanding that they would be nominated. But on the subject of a minister to Great Britain, the committee had no information but that which the bill indicated. The bill, as it went to the committee, contained an appropriation for outfit and salary for a minister and secretary of legation for England. The amendment under consideration corrected the bill in this particular. It struck out the outfit and salary for minister and secretary of legation, and continued the chargé d'affaires. From the omission of an appropriation for a chargé, it was presumed to be the settled purpose of the Executive to send a minister, as an appropriation for that purpose was inserted. The only question for the Senate to decide was, if it was proper for the President to send a nomination to the Senate, if he designed to make an appointment before the next session. The committee had kept back the bill to the last moment, chiefly for the purpose of enabling him to do so. Last week he had called the attention of the committee to all the other parts of the bill, and they had waited since, in the hope that a nomination would be made. The gentleman from Virginia [Mr. TYLER] was willing to appropriate, while he avowed the opinion that, if the President kept back the nomination, and sent a minister after the session, it would be an unconstitutional act. Many others took a similar view. The sole ground on which they desired the appropriation to remain in the bill, was that the President would send in a nomination to-day or to-morrow. He (Mr. W.) had never known any instance where the President had thought it to be his duty to keep his purpose so profoundly secret that it had not escaped to a member of either House. He presumed that the President had no intention to nominate. Such, also, was the impression in other quarters. He was willing to keep back the bill to the last moment; but if there was no nomination, he could not consent to the appropriation. He would rather risk the whole appropriation bill, because he believed that the constitutional rights of the Senate were more in danger of being overthrown on this than on any other question. This was the last day but one of the session. Who was prepared to say that any nomination would be made? If none were so prepared, let the appropriation be stricken out. There was no presumption in favor of the view of the gentleman from Virginia. The bill must go to the President to-day, or not at all. Was it not an irresistible presumption, that the President desired to let the session go by without making a nomination?

Mr. CALHOUN remarked that the Senate was about to make an appropriation in order that a minister might be appointed by the President in the recess, for not a single friend of the Executive had risen in his place and stated whether the President intended sending in a nomination to the Senate. The Senator from Virginia had stated that the President's making a nomination at this session was a question of duty. Yes, it was his duty—a high constitutional duty—to send to this body his nomination. He had only to look at the state of our foreign relations, particularly with France, to be convinced (if he required any convincing) of the great importance of our having a minister of the first grade at the court of of St. James. The duty of the Senate was to protect its own power. There had been a war against it, which was calculated to destroy it, had it not been composed of strong materials, of firm, unbending, and fearless men, acting in a righteous cause. He concurred in the remark of the Senator from Massachusetts, that he would rather risk this appropriation bill, and every other bill, than make an appropriation under present circumstances.

Mr. SHEPLEY observed that it was not his purpose to enter largely into the discussion. The State which he had the honor in part to represent had a very powerful interest in this question. It could not but be remembered by the Senate that that State had interests of a most vital character, and on which she felt most deeply, to be treated of in our negotiations with England, and which had in some measure been for a long time neglected. She would have great cause of regret and complaint that, because of a mere difference of opinion between the Executive and Senate, no minister was appointed to a court where it was so necessary that a question deeply affecting her should be settled. What had the Senate to act upon? What evidence was before them that the President would not make the nomination before the close of the session? He had listened with great attention to the debate, and he had heard no one authorized to say that no nomination would be made to the Senate at this session. They had heard, it was true, that none would be made; but what was the evidence? A bill was before the Senate making appropriations for the diplomatic intercourse of the United States, and a motion was made to strike out the salary and outfit of the minister to England. But would that prove that the President did not mean to make the nomination? He was still disposed to think that what he so much desired to see would happen; that is, that the President would make the appointment before the close of the session, and he would therefore vote for the appropriation. He regretted very much that the idea had been thrown out that no minister would be appointed.

Mr. TYLER doubted very much the propriety of the amendment. An appropriation for the salary and outfit of a minister to England was to be made, provided the President did not violate the constitution. Holding the opinion, as some Senators did, that he would send a

minister to England in the recess, the amendment was certainly equivalent to a declaration of that sort. He (Mr. T.) should deem the phraseology of the amendment improper. The views of the Senator from Massachusetts on this subject were very strong, and they would have undoubtedly much weight with the public. Although, as had been said, almost the last hour of the session had come, yet he was disposed to wait till almost the last minute to give the President an opportunity of sending in his nomination. He did not wish to furnish the Executive with an excuse, but he wished to prevent him from having to state in his defence for not sending in his nomination, that the Senate would not agree to make an appropriation unless he had first sent it to them. Did it become the Senate to insinuate such a thing as that he intended to violate the constitution? When he violated it, then it was time enough to act. But to anticipate a violation, and announce it in defence of that Senate's action, he did not know that such a thing was ever done in this country or any other. He extremely regretted that he could not agree with his honorable friends on this important matter. The course which he had taken was one of duty, and he could not swerve from it.

Mr. WEBSTER said that of their votes the Senate kept a record, but of their voices they unfortunately kept none. He could not make any distinction between this and the French mission.

By making this appropriation without the amendment, we are, said he, inviting the President to make the appointment in the recess. He cannot, said Mr. W., listen to our arguments, and of our protests he would be very apt to treat them as we have done his.

Mr. CLAY said it now appeared, from the admission of the Senator from Maine, that his State had a deep interest in our being represented at the court of Great Britain by a minister. He (Mr. C.) had known this for a long time, and with some surprise he had seen the gentleman sitting there the whole session quietly with that knowledge, this being the very first occasion that he had ever uttered one word on the subject. If at any time the gentleman had got up in his place and expressed his regret that we had no minister at the British court, and had made any proposition looking to our being represented there, he would have found him (Mr. C.) entirely concurring with him in support of the measure. It was now only about eight hours to the close of the session, and he did not think it likely a nomination would be made in that short time, when one had not been made in a session of three months.

[Mr. KING, of Alabama, observed that there were twenty-four hours of the session left.]

Mr. CLAY continued. The gentleman might put it thirty-four hours if he pleased; he was not particular; it was sufficient for him that he did not believe that a nomination would be made. By refusing this appropriation, he should not, as the gentleman from Virginia strongly says, be presupposing that the President would violate the constitution.

The gentleman did not seem to have attended to the attitude taken by the Executive with regard to foreign appointments. A minister was sent to England three or four years ago, during the recess; since then a minister was sent to France during the recess; and he had no doubt that a minister would be again sent to England during the recess, without the constitutional concurrence of the Senate, if the amendment should not be adopted. It did appear to him a little extraordinary in the Senator from Virginia, knowing as he did that the President held ideas dissimilar from his own with regard to executive power, that he should oppose the amendment, and knowing, too, that the President had repeatedly made such appointments during the recess of the Senate. He should have supposed that the amendmen would meet with the concurrence of every Senator, and that it would be supported particularly by the Senator from Maine, as it would enable him to have a minister at the court of Great Britain, who was so much wanted there to attend to the great interests of his State, unless the gentleman preferred to have one without the authority and concurrence of the Senate.

Mr. KING, of Alabama, could not vote for the amendment proposed by the Senator from Massachusetts. He believed, for one, that the President should not, except in extreme cases, appoint ministers without the advice and consent of the Senate. But extreme cases might arise, in which it was necessary for the President to make appointments without consulting the Senate. It was impossible for gentlemen to shut their eyes to the fact that many extreme cases had arisen, in which such appointments had been made. Mr. Rush was sent to England during Mr. Monroe's administration, and Mr. Adams called Mr. Rush home and sent Mr. Barbour in his place. There were other cases. Mr. King, of New York, was appointed in the recess and sent abroad. What did he do? In a short time he came home, and left a chargé in his place, who received the outfit and salary.

There were various cases, running through the history of the Government, not necessary to recapitulate, in which this power had been exercised. For himself, he was disposed to narrow down this power as much as possible. But as extreme cases might arise, in which it would be necessary to exercise this power, he could not, by his vote, say that the power should in no case be exercised. This appropriation was only to change a chargé for a full minister. You have made, said Mr. K., an appropriation for a chargé; and, the interest of the country requiring that we should have a full minister at the British court, this appropriation was only changing the grade of our representative there. In this case, he expressed his regret (he did so, and spoke it honestly) that no nomination of a minister to England had been made before that time, as the appointment ought not to be made but by and with the advice and consent of the Senate. He spoke this honestly, without fear of the administration; and he did hope that the President had friends who would advise him to make the nomination before the close of the session. Hoping that this course would be pursued, he was prepared to give the President the means of sending a minister to England; but if he believed that the President would make the appointment in the recess, he would vote against making the appropriation. As to the amendment, he must vote against it, for it seemed to him like saying that one of the co-ordinate branches of this Government should be guarded by another. He did hope that the appropriation would be made, with the understanding (which all of them had) that the appointment would be made before the end of the session, and not made during the recess, in violation of the constitution.

Mr. CALHOUN said that the amendment was absolutely necessary to guard their construction of the constitution; especially so, as the Executive construed that instrument differently from themselves.

Mr. TYLER did not mean to be the champion of the administration on that floor. It would be recollected that a minister to England was sent about two years ago to supply a vacancy which occurred during the recess, and the President acted properly in sending one. He need scarcely say that the nomination was rejected. And, with regard to the French mission, what happened? Why, Mr. Rives had signified his intention to return to the United States, on account of ill health, and the President appointed Mr. Livingston, in the recess of the Senate, to supply his place; and he accordingly departed for France before Mr. Rives had left that country. When

Congress again assembled, the Senate took up the subject, and it underwent much discussion. On one side it was contended that here was an anticipated vacancy, and that the President was bound to make his nomination during the sitting of the Senate. He (Mr. T.) thought the reverse, because Mr. Rives might have changed his mind. His plea for returning was bad health. The nomination of Mr. Livingston was confirmed.

Mr. CLAY would not do the honorable Senator from Maine the injustice to say that he, on any occasion, voted against the administration; but what he (Mr. C.) did say was, that, as the gentleman's own State was deeply interested in the appointment of a minister to England, any proposition to effect that desirable object would have, he had no doubt, his hearty support. Did the Senator believe that any nomination would be sent to the Senate during the present session? Did any man here believe it? He trusted that those who possessed any influence, particularly with the other branch, would employ it to produce such an object. Ninety-two days had elapsed, and not a word had the Senate heard about the nomination in question. He had looked all around that chamber for some days past, but not a word had he heard escape the lips of a single Senator as to the intention of the President to send in his nomination. Thirty-four and a half hours only remained to the present Congress, and yet no nomination. Well, *nous verrons*.

Mr. BLACK did not believe the insertion of the proposed proviso in the bill an insinuation that the President purposed violating the constitution. If the Executive were permitted, by silent acquiescence of the Senate, to make a practice of allowing the session to pass without laying his nomination before it, he might, if he chose, keep a man in office as long as he was disposed, without the consent of the Senate, and thus would the appointing power which belonged to it be rendered nugatory.

Mr. WEBSTER then moved to amend the clause so as to provide that the outfit and salary should not be paid except to a minister appointed by and with the advice and consent of the Senate first had and obtained.

Mr. W. asked for the yeas and nays; which were ordered.

After some further discussion, the question was taken and decided as follows:

YEAS—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Waggaman, Webster—28.

NAYS—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Morris, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Tyler, White, Wright—20.

So the amendment was agreed to.

Mr. EWING proposed to strike out the item for an outfit for a minister to Spain, and asked the yeas and nays; which were ordered.

Mr. CLAYTON was also in favor of striking out, on the ground of there being no vacancy to require an outfit.

Mr. CLAY said, as a proviso was introduced already into the bill which would show the President the opinion of the Senate in regard to the right of appointment during the recess of Congress, he was in favor of retaining the sum.

Mr. CLAYTON then read a letter from the Secretary of State, which had just been handed him, stating that the present minister to Spain had asked and obtained leave to return. Mr. C. said it was sufficient.

Mr. EWING then withdrew his motion.

Mr. WRIGHT offered an amendment to the section of the bill making a provision in favor of certain custom-house officers, and placing them on the same footing as before 1832, being a provision similar to those made heretofore for that object.

By unanimous consent the bill was suspended for the introduction of the following:

CONVENTION BETWEEN THE UNITED STATES AND SPAIN.

Mr. CLAY, from the Committee on Foreign Affairs, by unanimous consent, reported a bill from the House to carry into effect the convention between the United States and Spain, with an amendment.

The amendment provides that the distribution of the fund shall be made by the Attorney General instead of a special commission. The amendment was agreed to, and ordered to be engrossed. The bill was then read the third time and passed.

On motion of Mr. PORTER, the 17th joint rule, which prevents bills being sent to the President on the last day of the session, was suspended.

The Senate then took a recess until five o'clock.

EVENING SESSION.

CASE OF R. LAWRENCE.

Mr. SMITH, from the select committee appointed upon the letter of the Hon. GEORGE POINDEXTER, made a report at length, concluding with a resolution that not a shade of suspicion exists that Mr. POINDEXTER was in any way concerned, directly or indirectly, in the late attempted assassination of the President.

The report was read, and, the question being on its adoption,

Mr. WEBSTER asked the yeas and nays; which were ordered, and are as follows:

YEAS—Messrs. Bell, Bibb, Black, Buchanan, Calhoun, Clay, Clayton, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Hill, Kane, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, Mangum, Moore, Morris, Naudain, Porter, Preston, Robbins, Robinson, Ruggles, Shepley, Silsbee, Smith, Southard, Swift, Tallmadge, Tipton, Tomlinson, Tyler, Webster, White, Wright—42.

NAYS—None.

On motion of Mr. SMITH, the report and accompanying documents were ordered to be printed.

GENERAL APPROPRIATION BILL.

The Senate then resumed the consideration of the general appropriation bill.

The amendment offered by Mr. WRIGHT was still further discussed by Messrs. WRIGHT, BUCHANAN, SILSBEE, KING of Alabama, and CLAY.

Mr. WRIGHT asked the yeas and nays on the adoption of the amendment; which were ordered, and are as follows:

YEAS—Messrs. Benton, Black, Brown, Buchanan, Cuthbert, Frelinghuysen, Grundy, Hill, Kane, Kent, King of Alabama, King of Georgia, Linn, McKean, Morris, Poindexter, Preston, Robinson, Ruggles, Shepley, Tallmadge, White, Wright—23.

NAYS—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Goldsborough, Hendricks, Knight, Leigh, Mangum, Moore, Naudain, Porter, Robbins, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Webster—22.

So the amendment was agreed to.

The bill was then reported to the Senate.

Mr. CLAY asked the yeas and nays on receiving the amendment offered by Mr. WRIGHT and adopted in Committee of the Whole; which were ordered, and are as follows:

YEAS—Messrs. Benton, Black, Brown, Buchanan,

Cuthbert, Frelinghuysen, Grundy, Hill, Kane, Kent, King of Alabama, King of Georgia, Linn, McKean, Poindexter, Preston, Robinson, Ruggles, Shepley, Silsbee, Tallmadge, White, Wright—23.

NAYS—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Goldsborough, Hendricks, Knight, Leigh, Mangum, Moore, Porter, Prentiss, Robbins, Smith, Southard, Swift, Tipton, Tomlinson, Tyler, Webster—22.

So the amendment was adopted.

The bill was then, on motion of Mr. WEBSTER, still further amended, by incorporating into it the provisions of a bill affording relief to certain officers and soldiers of the Virginia line, and of a bill to construct a road from Lyme creek to Chattahoochie, and of a bill to confirm certain land titles in Missouri; which bills had passed the Senate on Saturday evening too late to be sent to the House.

The bill was then ordered to be engrossed, and was read a third time and passed.

EXPURGATION OF THE JOURNAL.

Mr. PRESTON moved to take up the resolution offered by Mr. BENTON for expunging from the journal of the Senate the resolution condemning the President; on which question the yeas and nays were ordered, and are as follows:

YEAS—Messrs. Benton, Brown, Buchanan, Calhoun, Clay, Clayton, Cuthbert, Hill, Kane, King of Alabama, King of Georgia, McKean, Mangum, Moore, Preston, Robinson, Ruggles, Shepley, Tallmadge, White, Wright—21.

NAYS—Messrs. Bibb, Black, Ewing, Goldsborough, Grundy, Hendricks, Kent, Knight, Leigh, Linn, Naudain, Poindexter, Porter, Prentiss, Robbins, Smith, Southard, Swift, Tipton, Tomlinson, Waggaman, Webster—22.

So the motion was lost.

DELAWARE BREAKWATER.

Mr. SILSBEE, from the Committee on Commerce, reported the bill from the House making appropriations for the Delaware breakwater, and for certain harbors, for the year 1835.

On Mr. SILSBEE'S motion, the Senate proceeded to consider the bill, as in Committee of the Whole, and the amendments having been gone through with,

Mr. TIPTON offered an amendment appropriating $10,000 to be applied, under the direction of the Secretary of War, to the construction of a harbor at Michigan city, mouth of Trail creek, on Lake Michigan.

Mr. T. said he felt it his duty to propose this amendment to the bill. He made a similar proposition last session; but it failed, as he understood, in consequence of no survey having been made of the proposed harbor. A survey, however, was made last fall, by an officer of the engineer corps, whose report was referred some weeks ago to the Committee on Commerce; and Mr. T. said he was informed by the honorable chairman [Mr. SILSBEE] that the committee would not consent to amend this bill, as it provided only for the prosecution of works already commenced. That there were similar propositions before them then, that the committee determined to attach to a bill that was expected from the House, providing for new works. He deemed it unfortunate that he had to encounter the unanimous opposition of the committee; it might defeat his proposition, but would not prevent him from doing his duty. He was told last year this harbor was not surveyed; and now, to wait till a bill came from the other House. Did not honorable gentlemen know that, at this late hour, no other bill need be expected from the other House? Mr. T. said he heard calls from all sides to withdraw the amendment, and he would do so if he could consistently with duty; but he could not, and would not, surrender the rights of those he had the honor in part to represent here. He begged honorable Senators to recollect that Indiana had no other harbors to improve but this. Few States were thus situated. Turn to your statute book, and you will find that no session of Congress passes without appropriating money for every other State. What has been done for Indiana? We ask nothing as a boon, but claim this appropriation as a matter of right.

Harbors have been constructed at every creek and inlet on the Eastern seaboard, on Lake Erie, and almost all other lakes. This town, Michigan city, although new, is a place of immense business. Many of its citizens are business men, possessing large capitals, and have embarked in commercial enterprises with great spirit. Between 60 and 100 lake vessels arrived at this port last summer. This number will no doubt be doubled the next season. The goods consumed in the northern part of Indiana, and a part of Illinois and Michigan, will be landed at this point as soon as the harbor is in a condition to protect the commerce of the place. Appropriations are made each year to construct a harbor at Chicago, 50 miles west of Trail creek, and another is also expected for the St. Joseph's river, forty-five miles northwest of our harbor. Mr. T. said he voted with pleasure for the construction of harbors, and would not now complain, could he obtain what is just for his own State. Every dollar laid out to improve harbors on Lake Michigan, turns the business to those which are most secure; thus, by improving that at Chicago, you substract from the business and the value of our property at Michigan city. He wished to be liberal to his neighbors, but could not consent to vote for others, to the neglect of his own constituents. Having presented the amendment and his views, he asked the yeas and nays, in order that, by recording his vote, his constituents might see that he had done his duty. If voted down, he would yield to the decision of the Senate as gravely as any Senator could, who felt that a portion of his constituents were operated upon unjustly. The yeas and nays were ordered, and the amendment was disagreed to by the following vote:

YEAS—Messrs. Benton, Black, Goldsborough, Hendricks, Kane, Kent, Linn, Robinson, Tipton, Tomlinson, Webster, White—12.

NAYS—Messrs. Bibb, Buchanan, Clayton, Ewing, Hill, King of Georgia, Leigh, Mangum, Naudain, Poindexter, Prentiss, Ruggles, Shepley, Silsbee, Southard, Swift, Tallmadge, Tyler—18.

PAY OF THE NAVY.

The bill to regulate the pay of the navy of the United States coming up,

Mr. HILL said if the bill for raising the salaries of the officers of the navy should pass, he would consider it to be one of the most severe blows ever inflicted on the American navy. As the sincere friend of that navy, he hoped the Senate would pause before they inflicted this blow. There is a point beyond which the people will not go; they are willing amply to remunerate every man in their employ, to the full amount of his services; but they never will consent that deception shall be palmed upon them.

I have (said Mr. H.) before me tables of the pay of the officers of the French and the British navy, and I will present them in contrast with the pay of the officers of the American navy, as it stands before the passage of this law.

Pay in the French Navy.

	Francs.	*Dollars.*
Maritime prefects, per annum (commanders at seaports,)	21,600	4,050 00
Vice admiral,	18,000	3,375 00

Rear admiral,	12,000	2,250 00
Post captain, 1st class,	6,000	1,125 00
Captain, 2d class,	5,400	1,012 50
Commander, (capitaine de frigate,)	4,200	787 50
First lieutenant,	2,400	450 00
Second lieutenant,	1,800	337 50
Mate, 1st class,	960	180 00
Midshipman, 2 class, and volunteers, no pay, except when in service,	480	52 50
Master gunners and helmsmen, first class, (per month, 90f.)	1,180	202 50
Master gunners and helmsmen, second class, (per month, 81f.)	972	182 25
Capitaines d'armes, 1st class, (per month, 81f.)	972	182 25
Capitaines d'armes, 2d class, (per month, 72f.)	864	162 00
Master carpenters, caulkers, and sail-makers, 1st class, (per month, 81f.)	972	182 25
Master carpenters, caulkers, and sail-makers, 2d class, (per month, 72f.)	864	162 00
Master armorers, 1st c., (p. m., 60f.)	720	135 00
Master armorers, 2d c., (p. m., 54f.)	648	121 50

One-fifth of the above to be deducted when the officers are on shore.

When at sea, the officers receive a daily mess allowance in addition, varying according to the service or station on which they are to be employed.

The midshipmen (*eleves*) of the 2d class receive no pay except when in service.

Pay of the British Navy as established by an order in council, June 23, 1824, computing the £ at $4 44.

Admiral of the fleet, per annum,	$9,723 60
Admiral,	8,103 00
Vice admiral,	6,482 40
Rear admiral or commodore, 1st class,	4,861 80
Captain of the fleet,	4,861 80

In addition to the above, every commander-in-chief receives a further sum of $13 32 per day, while his flag is flying within the limits of his station.

Mode of rating ships in the British Navy.

First rate.--All ships with three decks.
Second rate.—Two deckers of 80 guns and upwards.
Third rate.--Ships of 70, and less than 80 guns.
Fourth rate.--Ships of 50, and less than 70 guns.
Fifth rate.--Ships of 36, and less than 50 guns.
Sixth rate.--Ships of 24, and less than 36 guns.

The other vessels in the following table, rank in the seventh rank:

PAY IN THE BRITISH SERVICE PER ANNUM.

RANK.	1st rate.	2d rate.	3d rate.	4th rate.	5th rate.	6th rate.	Sloops, &c.
Captain, pay per month,	$3,542 08	$3,099 56	$2,709 04	2,213 56	1,771 04	1,549 79	$1,549 79
Commander,	3,542 08	3,099 56	2,709 04	2,213 56	1,771 04	1,549 79	1,338 52
First lieutenant, 7 years' standing,	663 78	663 78	663 78	663 78	531 02	531 02	531 02
All other lieutenants,	531 02	531 02	531 02	531 02	531 02	531 02	531 02
Master,	752 28	708 03	663 78	619 52	531 02	486 77	442 52
Chaplain,	708 03	708 03	708 03	708 03	708 03	708 03	708 03
Surgeons,	708 03	708 03	708 03	708 03	708 03	708 03	708 03
Purser,	404 04	404 04	404 04	404 04	404 04	404 04	404 04
Assistant surgeon,	531 02	531 02	531 02	531 02	531 02	531 02	531 02
Gunner,	531 02	531 02	Same in				
Boatswain,	531 02	531 02	all rates.				
Carpenter,	448 29	404 04	359 78	315 53	203 41	271 28	271 02
Mate,	227 03	Same in					
Midshipmen,	138 52	all rates.					
Schoolmaster,	271 28	249 15	249 15	227 03	204 90	204 90	
Clerk,	271 28	249 15	249 15	227 03	204 90	204 90	

PAY IN THE AMERICAN OR UNITED STATES SERVICE, &c.

RANK.	Pay and rations per annum.	Cabin furniture.	For house rent.	Fuel.	Candles.	Servants and rations	Total amount.
Captain of a squadron,	$2,660 00	$360 00	-	-	-	-	$3,020 00
Captain of a 74 gun ship,	1,930 00	300 00	-	-	-	-	2,330 00
Captain of a 32 do. and upwards,	1,930 00	240 00	-	-	-	-	2,170 00
Captain of navy yard, Philadelphia,	2,660 00	-	$600 00	$180 00	$65 00	$561 75	4,066 75
Lieutenant in command,	1,176 25	120 00	-	-	-	-	1,296 25
Master commandant,	1,176 25	180 00	-	-	-	-	1,356 25
Lieutenant attached to a ship,	965 00	-	-	-	-	-	965 00
Chaplains,	662 50	-	-	-	-	-	662 50
Surgeon of a fleet over 20 years' standing,	2,420 00	-	-	-	-	-	2,420 00
Pursers at sea,	662 50	-	-	-	-	-	662 50
Midshipmen,	319 25	-	-	-	-	-	319 25
Passed midshipmen,	482 50	-	-	-	-	-	482 50
Gunners,	422 50	-	-	-	-	-	422 50

Incidental allowances.

Two dollars per week to officers attached to navy yards where there are no quarters. Stationary is furnished, and all postages upon public letters are repaid to them. The cabins of the ships are supplied with the permanent furniture deemed fixtures, as carpets, tables, chairs, sofas, sideboards, dish covers, mirrors, &c. The allowance in lieu of cabin furniture is for other small articles. Fifteen cents per mile is allowed, to cover the expenses of travelling under orders, to captains and masters commandant, by land; twelve cents to all others; by water, ten cents and eight cents.

Where officers are detained on duty at places without their regular stations, they are allowed, to captains and masters commandant, three dollars per day; surgeons, lieutenants, and other officers, two dollars per day; during which their regular pay and emoluments continue.

Officers stationed at the several navy yards are allowed a much higher compensation, generally, than when at sea; a capital defect in making an efficient navy.

Officers returning to the United States from abroad have their passage money paid to them.

Prizes.—If of equal or superior force, the whole value is distributed among the officers and crews. If of inferior force, one-half to the United States and one-half to the captors. *Note.*—Individuals fit out privateers for the prizes at their own expense.

Pensions.—Officers wounded are pensioned, and if killed, their widows are pensioned.

From these several statements (said Mr. H.) it will be seen that the pay of the officers of the navy of the United States, under the law as it now stands, is better, much better, than the pay either in the British or French navy.

Thus it will be seen that the commander of a frigate in the French navy receives (besides a mess allowance of about one-fourth) $787 50; the same commander in the British navy receives, in full of all pay and emoluments, $2,213 56; while an American commander, of the same grade, receives $2,170, besides other emoluments. Here an officer of this grade has at least equal pay to an officer of the same grade in the British navy, and nearly double the pay of the same grade of officers in the French navy. Yet the bill raises the compensation of this officer from $3,500 as a minimum to $4,500 per annum as a maximum allowance.

But the pay of lieutenants is raised in still higher proportion. A first lieutenant in the French navy, exclusive of daily mess allowance, receives while on sea duty $450; a British lieutenant, as his highest and exclusive allowance, receives $663 78; while an American lieutenant of the highest grade receives $1,296 25, and of the lowest grade $965 per annum, under the law as it now stands. The new bill raises this pay of lieutenants of the highest grade to $1,800, and even the lowest is to receive $1,500 while on board ship. This is more than treble the pay of French officers of the same grade, and nearly treble that of the British service.

Take, also, the pay of the most numerous class of officers. Midshipmen in the French navy receive no pay except when in actual service, and when in service, besides the daily mess allowance, they receive as pay only $52 50 per annum. Midshipmen in the British navy receive, as their full emoluments, $138 52. American midshipmen, under the law as it stands, receive, as their lowest allowance, $319 25. The bill under consideration gives the same officer of the lowest grade, when attached to a ship, $400 per annum, and even while at home, doing no service, the sum of $300 per annum. The pay of midshipmen of the higher grade is carried in the American service to the amount of $750 per annum.

Other officers, it will be seen by the table I have presented, present a still greater discrepancy. Thus the commander of a yard is raised from $4,066 75 to $4,500; master commandant from $1,356 25 to $2,500; chaplains from $662 50 to $1,200; gunners, boatswains, sailmakers, and carpenters, from $422 50 to $750, &c.

Compared with the salaries of the highest civil officers in most of the States of the Union—with the salaries of the highest judicial officers, requiring expensive education and preparation, the pay of the officers of the American navy will be enormous, if the bill passes: it is out of proportion to all other compensation in this country, public or private. If the greatest enemy of the navy had meditated the greatest injury to the service, he could not have devised a more effectual method of doing it than the passage of such a bill as this.

The people cannot, they will not, stand such a stride in advancing public salaries, as is sanctioned by this navy bill. What was the condition of the officers of the navy during the late war with Great Britain? At that time, while they were fighting and covering themselves with glory—while they could not get from the impoverished treasury of the nation the smaller pay that was their due—they did not ask to have their pay raised, even when the currency was depreciated. But now a new race seems to have arisen in the navy, that knows not Joseph—an influence which comes from the higher grade, not the laboring classes of society. The rush for midshipmen's births in the navy, for many years, has been great, even with the low compensation that the present law affords. The sons of rich men, or of genteel poor men, not the bone and muscle of the country, are the most numerous seekers of places as midshipmen in the navy; hundreds of names are still on the list as seekers for the places. The number has been increased, until probably not one-fifth are in active employ. And is this the time to raise the pay of the boys in the navy? The midshipmen in the French and British navy have scarcely sufficient pay to purchase clothing; their youth go into the service with the sole prospect of reliance on their own exertions. The American youth who enter the service receive pay, both while out of and while in the service, sufficient to superinduce habits of dissipation. Can there be a doubt in which service will ultimately terminate superiority or elevation of character?

The whole increase of pay of officers of the navy by the bill, I am informed, will be to the amount of three hundred thousand dollars per annum. The addition to the pay of the corps of lieutenants alone, it is said, will exceed one hundred thousand dollars. And this, too, when it is said scarcely one-fifth of the officers of the navy are in actual service. Could there be a more unfortunate time to introduce such a bill as this?

The bill has been carried in one branch by an almost exclusive party vote on one side, with just enough of the other side to overbalance the question. This has been done, as I believe, when many of those who voted in favor of the bill did not understand the extent of the increase of pay. There has been a revulsion in that branch since the bill passed, that induces the Senator from New Jersey [Mr. SOUTHARD] now to say the bill will be lost, if it shall be amended so as to include the officers of the marines, and make them equal to those of the navy. The Senate will not suffer this bill to go back to the House. It might have been there passed under entreaties and personal applications of those interested. It is my belief the bill would not again pass that body. Its great friend here will not again trust the bill out of the Senate. I shall regret hereafter, if it shall be seen that the effect of raising the salaries of the officers of the navy, at a time when there is a general press on the Secretary of the Navy to get places in that service, will lower the estimation in which that branch of the public service is held by the people of the United States.

When Mr. HILL had concluded his remarks, the Senate went into the consideration of executive business; after which

Adjourned, at about 11 o'clock.

TUESDAY, MARCH 3.

TREASURY CIRCULAR.

On motion of Mr. WEBSTER, the Committee on Finance was discharged from the further consideration of a resolution directing them to inquire into the legal effect of the Treasury circular to the land offices, the committee not having had time to act on the subject.

On motion of Mr. WEBSTER, the same committee was discharged from the further consideration of the subjects referred to that committee for their action during the recess. On the subject of the currency a mass of materials had been collected, but it had been found impracticable to put these materials in a shape which would be worthy of the consideration of the Senate. It was the intention of some members of the Committee on Finance to bring the subject before the Senate at the next session. There was also another subject referred to the committee, concerning the dealings of the United States Bank in bullion. A correspondence had been carried on with the United States Bank, and a report will be made to that committee as soon as practicable. At present, the necessary returns had not been received from the branches.

Mr. W., in moving to discharge the Committee on Finance from its unfinished business, said he would take the opportunity to say that he had understood that, in the paper of this morning, usually esteemed the official paper, a denial had been given to the statement made by him the other day, respecting an occurrence at one of the deposite banks. He certainly did not wish to bring individuals, or particular institutions, before the public unnecessarily, as objects of comment or remark. His object had been merely to state the fact, which he was sure was quite true, and to induce the Senate, by proper provision, to guard against its recurrence. That object had been answered. But there were gentlemen around him who were friendly to the administration, and supported its measures; and if either of these gentlemen would take the responsibility of asking for names, he would give names, and dates, and sums, and every particular of the transaction. But he should not do this, merely by way of reply to a newspaper paragraph. Names, dates, sums, and circumstances, were all at the service of any gentleman of the Senate who would please to have them. He has but to ask for them, and they are ready.

Mr. TALLMADGE rose and said that, when the bill concerning the deposites was before the Senate, he had deemed the provision moved by the Senator from Massachusetts as unimportant, it being the mere re-enactment of what was previously the law. In regard to any disclosures which the Senator might have it in his power to make concerning any of the deposite banks, as he knew nothing on the subject, it was not for him to make any request of the Senator on the subject of making them public.

Mr. BENTON said he had been struck with the circumstance when it was stated by the Senator from Massachusetts in such a manner as to demand credit. He did not ask for names or for degrees. If there was any thing which he abominated, loathed, and detested, more than another thing, it was these current notes. If any thing of the character charged had been done by any deposite bank, he should be inclined to act against such bank with even more perseverance than he had acted against the United States Bank.

Mr. CLAY, from the Committee on Foreign Relations, made a report on the message of the President of the 25th ultimo, and the report was laid on the table and ordered to be printed, and the committee were discharged from the further consideration of that message.

NORTH CAROLINA RESOLUTIONS.

Mr. MANGUM asked leave to send to the Clerk's table certain resolutions adopted by the Legislature of North Carolina; and asked that the Senate would indulge him in having them read. He said it was not his purpose to detain the Senate by comment upon them. This was not the arena upon which to discuss and adjust any difficulties that had arisen, or that might arise, between his constituents and himself. He would not detain the Senate longer than to express the hope that the expunging resolution would be taken up in the course of the day, and that he would be allowed to record his vote upon them.

In reference to the instructions, he would avail himself of the occasion barely to say that he should not conform to them. He should vote against the expunging resolution. The Legislature had no right to require him to become the instrument of his own personal degradation. He repelled the exercise of so vindictive a power; and, when applied to himself, he repelled it with scorn and indignation.

The members of the Legislature were servants and representatives of the people; he (Mr. M.) was likewise one. That they were disposed to guard with jealousy the honor of the State it was not his province to discuss or to question. He likewise felt it his duty to guard the honor of the State, and not less to guard his own personal honor; both, in his conception, imperiously required him to disregard the resolutions; and, that point being settled in his mind, he trusted no one who knew him could entertain a doubt as to his course on this subject.

Mr. FRELINGHUYSEN said he stood in the same predicament as his friend from North Carolina, [Mr. MANGUM.] He had constitutional objections to complying. He believed the Senate had no power over the journal. It was a record of the acts of the Senate, guarantied by the constitution, for the benefit of the minority. He would warn the majority who should be in those seats next session, to leave to him untouched the sacred privilege provided by the constitution for showing his successors how he had acted.

Mr. CALHOUN expressed his regret that the subject had been deferred to so late a period of the session. He believed it the most important subject that had been brought before Congress; and a subject on which he had wished to be heard. He thought they had the same right to express their disapprobation of as to flatter the Executive. When they had arrived to such a period as either they must flatter or be silent, they should equal the most degenerate days of the Roman Republic, when the horse of the Emperor was declared Consul.

Mr. KING, of Alabama, said he was surprised at the language of the Senator from South Carolina, [Mr. CALHOUN.] The gentleman spoke of an opportunity of discussing the subject. Did he not remember the presentation of the instructions from Alabama? It was great injustice to insinuate the discussion had been put off by the friends of the administration, when he (Mr. C.) had occupied the Senate most of the time with his report and bills, since the resolution was introduced. The honorable Senator had spoken of flattering the Executive. Had not that Senator heaped upon the President, with the utmost license, his censures and invectives; and been listened to with far more attention than he had listened to those who spoke in his defence, believing he had acted honestly and with good inten-

tions? Yet the Senator compared them to the degenerate times of the Roman Senate!

Mr. K. said he, for one, was not disposed to be branded as the supple tool of executive power. If the Senator makes such charges, he must except him from the number. Mr. K. said he would not endure it. There were certain disappointed aspirants to power who always viewed things through a gloomy medium, who were ever croaking over the imaginary ruins of our free institutions.

After some further remarks by Messrs. CALHOUN, MANGUM, and LEIGH,

Mr. CLAYTON said he would say nothing of the instructions. He had himself received instructions, but of a very different nature from those before the Senate. His own State (Delaware) had instructed him to resist any attempt to deface the journals of the Senate, and he had risen to make a motion that would give him an opportunity of obeying. He would first move to lay the instructions on the table; which was agreed to.

EXPURGATION OF THE JOURNAL.

Mr. CLAYTON then moved to take up the resolution offered by Mr. BENTON, for expunging from the journal the condemnatory resolution.

Mr. PORTER objected, as the time of the Senate was required for the necessary business before it.

Mr. BLACK demanded the yeas and nays.

The motion was supported by Messrs. CLAY, CLAYTON, LEIGH, and FRELINGHUYSEN, and opposed by Messrs. PRESTON, and KING, of Georgia.

Mr. BROWN said he wished to reiterate the same sentiments he had expressed there a year ago. He thought the act for which the President had been censured was one of the brightest actions of the present administration. It would redound to the honor of President Jackson to the latest period of our Republic.

The question was then taken by yeas and nays, and decided in the affirmative:

YEAS—Messrs. Bell, Benton, Brown, Buchanan, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Grundy, Hill, Kane, King of Alabama, Knight, Leigh, Linn, McKean, Mangum, Morris, Moore, Naudain, Prentiss, Robbins, Robinson, Ruggles, Shepley, Smith, Swift, Tallmadge, Tomlinson, White, Wright—33.

NAYS—Messrs. Bibb, Black, Cuthbert, Hendricks, Kent, King of Georgia, Porter, Preston, Tipton, Tyler, Waggaman, Webster--12.

So the Senate took up the resolution.

Mr. WHITE then moved to amend the resolution by striking out the word "expunge," and inserting "rescind, reverse, and to make null and void."

Mr. W. said he could not vote to obliterate and deface the journal of the Senate. He believed it was the right of every Senator to have the votes stand, that the people might know how they had voted. He wished the resolution so framed as to express his feelings on the subject.

Mr. W. desired the yeas and nays on the adoption of his amendment; which were ordered.

Mr. WEBSTER said he should vote against the amendment. He wished to bring the Senate to vote on the original resolution.

Mr. BENTON said he believed the word "expunge" was strictly parliamentary. He did not wish to obliterate the journal, but to make use of a phraseology which would strongly express that the resolution ought never to have been put into that journal. The word "rescind" was not strong enough; it admitted the lawfulness of the act at the time it was done. It was a convenient term when they merely wished to alter any thing that had been found inexpedient. It was a mere harmless word, expressing no marked disapprobation of the propriety of the resolution at the time it was adopted. Every Senator, said Mr. B., might vote to "rescind" the resolution, without altering his opinion in the least. They might say that President Jackson was the first Executive that had ever been condemned in this manner; therefore they would rescind the resolution. Such, and no more, was the force of the term "rescind."

Mr. WHITE said, in his opinion, the term "expunge" referred to obliterating the journal, which he could never consent to have done. He wished the proceedings to stand as they transpired, and go down unblemished to posterity. He thought the proposed amendment, which declared the resolution null and void, as much as said it never ought to have been inserted in the journal.

After some further remarks from Mr. WHITE and Mr. WEBSTER, Mr. NAUDAIN moved to amend the amendment by inserting such words as would reaffirm the condemnatory resolution, but he afterwards withdrew the motion.

After some remarks from Messrs. BENTON, WHITE, GOLDSBOROUGH, and CLAYTON,

Mr. WRIGHT said he did not rise to debate this question, but merely to ask the indulgence of the Senate to lay on the table the instructions given him and his colleague by the Legislature of New York.

Mr. CLAYTON objected.

Mr. McKEAN, after some introductory remarks, suggested to Mr. WHITE to modify his amendment, so as to adopt the words used by one branch of the Pennsylvania Legislature in their resolution of instruction upon this subject, which would make the amendment more acceptable to him—the effective words were to *repeal* and *reverse*.

Mr. WHITE said, in adopting the words as a modification, the object of my amendment is to enable each Senator to express the opinion he really entertains of the resolution formerly passed by this body. To vote for the resolution of the Senator from Missouri, in its present shape, I cannot. He proposes to "expunge" from our journals one of our resolutions, which was adopted when our votes were taken and recorded by yeas and nays.

The constitution requires that "each House shall keep a journal of its proceedings, and that, at the desire of one-fifth of the members, the yeas and nays shall be taken upon any question." This constitution each member has solemnly sworn to support. When we speak of the journal of our proceedings, we speak of a book kept here, and under our own inspection, in which is faithfully recorded, under its appropriate date, every transaction of the body. This book is the original, and all others are only copies of it. Now, what is proposed by the resolution? It is to expunge one of the resolutions which we all admit we actually adopted, upon yeas and nays, on the 28th of March, 1834. Now, if we adopt this resolution, we solemnly order that our former resolution shall be erased, rubbed out, blotted, obliterated, or so cancelled that it cannot be read. Suppose this order carried into effect, and any man to read our record, our journal under date of the 28th March, and he would have no knowledge that such a resolution as that complained of had ever existed.

The answer given to this argument, by the honorable Senator, is not satisfactory. He says, in his resolution now under consideration, it is preserved, because it is set out word for word. But it is not under its true date; and upon that principle, if we wished to ascertain what was done on the 28th of March, 1834, we must look, not to the journal of that year, but to the journal of 1835. This would not be a diary, or journal of our proceedings, according with the facts.

Again: What would become of our yeas and nays? Are we to deprive ourselves, those of our own day, and

posterity, of all means of knowing how we voted? The gentleman does not propose preserving our yeas and nays. I do not wish to lose mine, nor do I suppose any other member wishes to give up the record evidence of his opinion.

It appears to me plain that we cannot vote for expunging the journal, because it is contrary to the positive injunction of the constitution, which we are bound to observe. Adopt my amendment, and then pass the resolution, and we accomplish every thing desirable. We "rescind" and declare "null and void," the original resolution. This is all that can be wished by any person. We reverse our decision, because we now think it was wrong: we declare it null and void, because it was always wrong, and ought never to have been adopted.

This is the effect of my amendment, as first proposed by me; and now, at the instance of the honorable Senator from Pennsylvania, [Mr. McKEAN,] I have modified, so as to incorporate into it the additional words, "repealed and reversed." It now reads, that the resolution of the 28th of March is "rescinded, repealed, reversed, and declared to be null and void." This, it appears to me, is as strong an opinion as we can give, that the original resolution shall not stand as the judgment of the Senate, and that it ought never to have found a place upon our journals.

This far I am very willing to go, because it conforms to the opinion I now entertain, and to the one I entertained when the original resolution was adopted.

If time permitted, I would gladly say more upon this subject; but it does not, and I must content myself with expressing a hope that my amendment may be adopted, so that I can vote for the resolution without a violation of one of my most solemn obligations.

A discussion of considerable length and much excitement ensued, in which Messrs. BENTON, McKEAN, KING of Georgia, BUCHANAN, MANGUM, CALHOUN, CUTHBERT, FRELINGHUYSEN, KING of Alabama, CLAY, and WEBSTER, participated.

Mr. MOORE said he did not rise to discuss this question at this moment. The very feeble state of his health would not permit it, even if he were disposed. Yet the peculiar situation he occupied in connexion with the subject-matter, he hoped would be accepted as his apology for the very few moments he proposed to detain the Senate.

He said it was true, as had been intimated by the honorable Senator from South Carolina, [Mr. CALHOUN,] that the General Assembly of Alabama had sent him two sets of instructions: in the first he was instructed to resign his seat here, and in the second he was instructed to vote in favor of expunging the resolution adopted by the Senate, censuring the course the Executive pursued in relation to the public treasure of the country.

As these resolutions are contradictory in their character, and at variance with each other, he would have found no little difficulty in complying with both, although an advocate for the right of instruction. If he had complied with the first set of instructions, viz: have forthwith resigned his seat, he of course could not complied with the second set of instructions, viz: he could not have voted in favor of the expunging resolution, as instructed in the second. He therefore, after mature deliberation, had come to the conclusion that, as regarded the first, requiring his resignation, he could not admit the right of the General Assembly to alter or change the constitutional tenure of his office, and he had made an appeal to the sovereign people of the State, to whom the members of the General Assembly and himself were alike responsible.

He said, again, as the subsequent resolution or law is viewed as repealing the former, where there exists inconsistency, he did not know but the General Assembly had thought better of this matter, and, after passing the resolutions requesting a resignation, therefore adopted the second in order to repeal the former, in adopting which they had no legitimate power.

Now, said Mr. M., as regards the instructions to vote in favor of expunging the resolution censuring the course of the President, if the General Assembly mean, by "expunging," a repeal, a reversal, or a rescinding of the obnoxious resolution, he could have no difficulty in yielding an explicit obedience to their instructions; because he voted against this resolution; true, sir, under a different influence from that which operated upon his colleague.

He said he had expressly stated that, in his own private convictions of this matter, in the act of the Executive in the removal of the public treasure from the place where it had been deposited by law was involved an abuse of executive power, to say the least. Notwithstanding this was his own view, believing as he did at the time that a majority of those whom he had the honor to represent entertained different views, he had, in obedience to the supposed will and wishes of his constituents, recorded his vote in opposition to this obnoxious resolution, and he was now prepared to reaffirm that vote.

But, said Mr. M., it may be that the General Assembly or the leaders in these resolutions of instructions were ignorant of the precise vote that he had given; for, said he, he could not believe the last General Assembly could have intended to express the least doubt of the orthodox political faith of his colleague, nor his willingness to vote in favor of the expunging resolution: but he said he was glad to find, upon this occasion, that the General Assembly and he himself had been mistaken. For, said Mr. M., when these resolutions of the General Assembly of Alabama were first received and presented by his colleague, he thought his colleague had then given an earnest of his views in favor of them altogether; but he was now informed by his colleague that he believed it would be unconstitutional to expunge, deface, or falsify the journals. Sir, said Mr. M., he was much gratified to find that his colleague and himself thought alike upon this subject—he was glad to find they would vote together upon this topic.

Mr. KING, of Alabama, then moved to amend that part of the resolution proposed to be stricken out, by first striking out the words "ordered to be expunged from the journals."

Mr. MOORE demanded the yeas and nays upon the question; which were ordered, and are as follows:

YEAS—Messrs. Bell, Benton, Bibb, Black, Buchanan, Clay, Clayton, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Kane, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Mangum, Moore, Morris, Naudain, Prentiss, Preston, Robbins, Robinson, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Tyler, Waggaman, Webster, White--39.

NAYS--Messrs. Brown, Hill, Porter, Ruggles, Shepley, Tallmadge, Wright--7.

So the motion to strike out prevailed.

Mr. WEBSTER then rose and said, the vote, the great vote, which the Senate has now given, has accomplished all that I have ever desired respecting this expunging resolution.

The resolution of the Senate of the 28th of March, which it has been proposed to expunge from the journals, asserted the proposition that the conduct of the President in relation to the public revenue had been unconstitutional. Now, this proposition might be true, or not; it was a matter on which gentlemen voted on both sides. It implies, doubtless, a power in the Senate to express an opinion on the conduct of the President,

and there may always be some who deny or doubt that power. It would have been perfectly in order, at any subsequent time last session, or at any time this, to have brought forward resolutions declaring that the Senate has no such power. We must have met the resolutions, debated them, and voted on them. If they had passed, they would of course have stood in contradiction to the preceding resolutions; and all that could have been said is that the Senate had passed inconsistent resolutions. Propositions, it is possible, may be made hereafter, in contradiction to the principles of the resolution of March. These things must be expected, and must be met when they arrive. But that which made this resolution, which we have now amended, particularly offensive, was this: it proposed to expunge our journal. It called on us to violate, to obliterate, to erase, our own records. It was calculated to fix a particular stigma, a peculiar mark of reproach or disgrace, on the resolution of March last. It was designed to distinguish it, and reprobate it, in some especial manner. Now, sir, all this, most happily, is completely defeated by the almost unanimous vote of the Senate which has just now been taken. The Senate has declared, in the most emphatic manner, that its journal shall not be tampered with. I rejoice most heartily, sir, in this decisive result. It is now settled, by authority not likely to be shaken, that our records are sacred. Men may change, opinions may change, power may change, but, thanks to the firmness of the Senate, the records of this body do not change. No instructions from without, no dictates from principalities or powers, nothing—nothing—can be allowed to induce the Senate to falsify it own records, to disgrace its own proceedings, or violate the rights of its members. For one, sir, I feel that we have fully and completely accomplished all that could be desired in relation to this matter. The attempt to induce the Senate to expunge its journal has failed, signally and effectually failed. The record remains, neither blurred, blotted, nor disgraced.

Now, sir, as to the principles involved in that resolution, I am willing to discuss them at any suitable time hereafter. At present there is no leisure for such discussion; and, the Senate having now, by so large and decisive a vote, expunged whatever was offensive in the expunging resolution, and there being no time for further discussion, I shall conclude by a motion, which I forwarn friends and foes that I shall not withdraw, which is, that the resolution be laid on the table.

Upon this motion, without further debate, the yeas and nays were taken, as follows:

YEAS—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Tyler, Waggaman, Webster—27.

NAYS—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Ala., King of Geo., Leigh, Linn, McKean, Moore, Morris, Robinson, Ruggles, Shepley, Tallmadge, White, Wright—20.

So the resolution was laid on the table.

After some other proceedings, the Senate took a recess till 5 o'clock.

EVENING SESSION.

FRAUDS IN THE SALES OF PUBLIC LANDS.

Mr. POINDEXTER, from the Committee on the Public Lands, made a report of the investigations of the committee into the subject of frauds in the sales of the public lands, accompanied by the testimony taken under the authority of the committee in relation thereto.

Mr. P. then moved that the report and documents be printed, and referred to the President of the United States; which was agreed to.

Mr. P. then moved that 5,000 additional copies of the report and evidence be printed for the use of the Senate.

The motion was opposed by Messrs. HILL, WRIGHT, and BENTON,

When Mr. WRIGHT asked the yeas and nays upon the question; which were ordered, and are as follows:

YEAS—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Goldsborough, Hendricks, Kent, Leigh, McKean, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Silsbee, Smith, Southard, Tomlinson, Tyler—23.

NAYS—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Ala., King of Geo., Linn, Morris, Ruggles, Shepley, Tallmadge, Tipton, White, Wright—17.

So the motion was agreed to.

EXPUNGING RESOLUTION.

Mr. BENTON submitted the following resolution, which he desired to stand for the second week of the next session:

Resolved, That the resolution adopted by the Senate on the 28th day of March, in the year 1834, in the following words, "*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both," be, and the same hereby is, ordered to be rescinded and reversed; because the said resolution is illegal and unjust, of evil example, indefinite, and vague, expressing a criminal charge without specification, and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer; and at a time and under circumstances to endanger the political rights, and to injure the pecuniary interests of the people of the United States.

PRESIDENT PRO TEMPORE.

At six o'clock the VICE PRESIDENT left the chair, and the Senate proceeded, by ballot, to elect a President *pro tempore* for the remainder of the session.

On the first ballot, the whole number of votes were 44; necessary for a choice 23. Mr. Poindexter 1, Clay 1, Webster 1, Mangum 2, Silsbee 1, Southard 5, Tyler 15, King of Georgia 18.

The second ballot resulted as follows: Mangum 1, King of Georgia 1, Webster 1, Preston 1, Southard 3, Tyler 15, King of Alabama 20.

Third ballot: Mangum 1, Webster 1, Preston 1, Southard 1, Tyler 20, King of Alabama 21.

Fourth ballot: whole number 45, necessary for a choice 23. Southard 1, King of Alabama 19, Tyler 25.

Mr. TYLER, having received a majority of the whole number of votes, was declared duly elected; and having been conducted to the chair by Mr. KING, of Alabama, he addressed the Senate as follows:

SENATORS: In calling upon me unexpectedly to preside over your deliberations, you have conferred upon me a testimonial of your respect and confidence, upon which I place the highest value. I accept it with gratitude, and shall fondly cherish its recollection. You are the representatives of sovereign States, deputed by them to uphold and maintain their rights and interests. Unlike the Roman Senate, so much vaunted of in ancient story, you owe your elevation to the high seats which you occupy, to no adventitious circumstance of birth or fortune, but to the ennobling traits of intellect and virtue. And what citizens of any one of these States can fail to be proud of you? Who can reflect without high satisfaction on the daily display of intellectual vigor constantly manifested in the debates which here occur? Party contests may divide and sever; those contests constitute the

organic principle of free States. You may, severally, in your turn, have become the objects of attack and denunciation before the public; but there is not, and cannot be, an American who does not turn his eye to the Senate of the United States, as to the great conservative body of our federal system, and to this chamber as the ark in which the covenant is deposited. To have received, therefore, at your hands, this station, furnishes to me abundant cause for self-gratulation. This feeling is not diminished by the fact that but few hours now remain to this session, and that I shall be probably called upon to render but little active service in this place. Upon this circumstance, I congratulate both you and myself; for, although I have, for the greater portion of twenty years, been connected with legislative bodies, this is the first time I have ever been called upon to preside over the deliberations of any; and I have only sought so far to make myself acquainted with the rules of parliamentary proceeding, as to avoid any flagrant violation of them in my personal conduct. For the short period which will now elapse prior to your adjournment, I claim, and shall doubtless receive, at your hands, for the defects which I may exhibit, and the errors into which I may fall, a liberal indulgence.

On motion of Mr. KING, of Alabama, the Secretary of the Senate was directed to inform the President of the United States, and the House of Representatives, that the Senate had elected the honorable JOHN TYLER President *pro tempore* of the Senate.

CHESAPEAKE AND OHIO CANAL.

The bill making a further appropriation in aid of the Chesapeake and Ohio canal was taken up for consideration. The amendment to insert $300,000 being under consideration, was supported by Mr. KENT and Mr. CLAY, and opposed by Mr. BLACK and Mr. WRIGHT, who asked the yeas and nays upon the question; which were ordered, and are as follows:

YEAS—Messrs. Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Linn, McKean, Moore, Naudain, Poindexter, Porter, Robbins, Southard, Tipton—16.

NAYS—Messrs. Bell, Benton, Bibb, Black, Brown, Buchanan, Calhoun, Cuthbert, Grundy, Hill, King of Alabama, King of Georgia, Knight, Leigh, Mangum, Morris, Prentiss, Preston, Robinson, Ruggles, Shepley, Smith, Swift, Tallmadge, Tomlinson, Tyler, White, Wright—29.

So the amendment was disagreed to.

Mr. GOLDSBOROUGH then moved to insert an appropriation of $200,000, upon which Mr. BLACK asked the yeas and nays; which were ordered.

Mr. SHEPLEY spoke in opposition to the bill, and Mr. CLAY and Mr. LINN in support of it; when Mr. ROBINSON moved to lay the bill on the table; which was disagreed to, on a division: Yeas 19, nays 26.

After some further opposition from Mr. SHEPLEY,

Mr. WEBSTER renewed the motion to lay the bill on the table; which was agreed to.

GENERAL APPROPRIATION BILL.

The Senate then took up the civil and diplomatic appropriation bill, which was returned from the House, and proceeded to consider the vote of that body disagreeing to the amendment of the Senate, providing that "the salary and outfit of the minister to Great Britain shall not be paid, unless such minister shall be appointed by and with the advice and consent of the Senate."

Mr. WEBSTER moved that the Senate insist on their amendment; which was agreed to, and the House directed to be informed thereof.

Mr. CLAY rose and said he hoped the Senate would not only insist, but adhere to the amendment. He would throw the responsibility of the loss of the bill upon those who ought to bear it. Twenty-four hours had already elapsed since the Senate adopted the amendment, and only four hours and a half remained to it to receive a nomination. They had, however, not heard one word about any such thing, as yet, and probably would not. I go (continued Mr. C.) for the constitution; I go for the rights of this body; I go for every department of this Government performing its duty, and let those who choose not to adhere to the constitution and those who wished not to take upon themselves the responsibility and consequences resulting from the loss of this bill take warning. Will the member from New York [Mr. WRIGHT] get up in his place and tell us what is to be done with regard to the mission to England? and whether, if the President should withhold the nomination we have been expecting, he will, during the vacation send a minister to England? No, he cannot say so. Sir, no man here can say whether he will have to assist in making the appointment. If that be the case, for what purpose are we to make an appropriation? Sir, you yourself took the ground; the Virginia ground; the constitutional ground; that no appointment could be constitutionally made, under all the circumstances of the case, unless made by and with the advice and consent of the Senate. And but four hours and a half remain in which it can be done, unless postponed to the next session: and we have not the slightest intimation from the honorable Senator himself—whether he stands as the leader or the follower of the administration—whether it is the purpose of the Executive to make a nomination, or to make an appointment in violation and contempt of the constitution. As I have said again and again, if the President will intimate to us that it is his purpose to send us his nomination before the adjournment of the Senate, I will vote, and vote with pleasure, for an appropriation, and I will vote for it on no other condition.

Mr. C. concluded by recommending that a committee of conference be appointed on the part of the Senate to confer with a committee on the part of the House. If neither of the committees should agree to strike out the provision, and consent to the amendment with which it was coupled, he (Mr. C.) would be disposed to take the consequences upon himself, or rather, to throw upon the House the responsibility which it would incur by the President's making an appointment in the absence of the Senate.

Mr. CLAY, Mr. WRIGHT, and Mr. EWING, were appointed the committee on the part of the Senate.

The other amendments of the House to the amendments of the Senate were severally considered, and, being immaterial, were gone through with, some being agreed to and others dissented from.

FORTIFICATION BILL.

The Senate proceeded to consider the message from the House of Representatives, proposing to amend one of the Senate's amendments to the annual fortification appropriation bill, by adding thereto the following:

"SEC. 2. *And be it further enacted*, That the sum of three millions of dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to be expended, in whole or in part, under the direction of the President of the United States, for the military and naval service, including fortifications and ordnance, and increase of the navy: Provided, such expenditures shall be rendered necessary for the defence of the country prior to the next meeting of Congress."

Mr. WEBSTER, in a few remarks, which our reporter was prevented from reporting, expressed his hope that the Senate would disagree at once to this amendment.

Mr. CALHOUN said that the amount of the appropriation asked for was extremely large, and, what was most extraordinary, it was to be made on the supposition that this country was to be involved in a war with France, and either without previous declaration, or with a declaration to be issued by the Executive, without first calling Congress together.

Mr. LEIGH could not forbear expressing the astonishment he felt at the course which the House of Representatives had thought proper to pursue in regard to this appropriation. For his own part, he was free to confess that he would as soon vote to give the Chief Magistrate of this Republic unlimited power at once, as vote to place at his entire disposal and discretion such an enormous sum of money as was contemplated by this amendment. He had not met with a single human being who wished to convert our free form of Government into an absolute monarchy, nor did he believe that any man in this country desired such a change. Yet here was a proposition which went to establish a military monarchy; it was, in fact, in the very form of a proposition of that sort. They might almost as well say that the President should be made Consul for life, or Emperor of the American people. It was, indeed, a most remarkable proposition, and one which he never expected to hear.

Mr. WRIGHT said he did not feel that great alarm which the Senator from Virginia appeared to feel. They all knew very well why the provision, so much complained of by some Senators, was inserted in the bill. It was because they were about to adjourn when there was a peculiar crisis in our foreign relations, and it was too late to have gone into the detail of legislation. For himself, he could say—whatever others might think—that he did not believe that a dollar of the money which was now proposed to be appropriated would be expended, though no one knew what might happen. They had been told by the gentleman from Massachusetts that this country was not to be brought into a war until Congress should have been first convened. Now, nothing as to that was implied in this proposition; it was merely putting in the power of the President, in any contingency that might happen, the means to secure the safety of the country until the assembling of Congress.

Mr. W. then asked the yeas and nays; which were ordered.

Mr. LINN said he should vote for this appropriation, although it was an extraordinary one, because he thought it necessary under the present aspect of affairs. He could not believe that this Chief Magistrate, or any other who might preside over the destines of this people, would make a wrong or improper application of their funds.

Mr. LEIGH did not vote against the appropriation from any fear as to the use which might be made of the money; but he voted against it on the ground that it was at war with the doctrine of constitutional liberty.

Mr. SOUTHARD said he must certainly concur with the gentleman from Virginia, in astonishment at this extraordinary provision, and at the manner in which the appropriation was defended by the Senator from New York. What, he (Mr. S.) would ask, was the character of this appropriation? It amounted to the enormous sum of three millions of dollars, and was to be put into the hands of the President, to be expended by him at his own good will and pleasure. It was without limitation or restriction—without specification of objects—or any designation of purpose whatever. To be sure, there was added to the provision an idea of this sort, that the money should not be expended unless the public necessity should call for it. Who was to judge of the public necessity for the expenditure of this money? The Executive alone. Had we arrived at that period in our history when the Executive was to determine when or how the public money was to be expended in cases of danger or otherwise? Had we progressed to that period when the Congress of the United States, the guardians of the people's treasure, were not to determine as to that matter, but the power was to rest in the hands of the Chief Magistrate only? There was, however, in regard to this subject, a higher question to be decided. The professed object of the appropriation was to defend the country in case of war. And what was the power put into the hands of the Executive by that very appropriation? Why it was the power of making war. Congress told him to increase the navy, the army, and the fortifications, if he pleased. He (Mr. S.) would say, give him that power, and there would remain no obstacle to prevent him from plunging this country into a war. He was to be guided alone by what he deemed right or wrong! He (Mr. S.) had never heard of such a proposition as this before. He confessed that he could hardly speak of it with respect. Here was a proposition, made by the immediate representatives of the people, to place in the hands of one man, without control, three millions of dollars, and who, consequently, would have the power of making peace or war. Supposing that the appropriation were made, did it require any thing like ingenuity on the part of any man to perceive that, if the President wanted a war with France, he could readily bring about such an event? Thus the highest attribute of legislation—an attribute conferred by the constitution on Congress alone—the power of making war—is here placed in the hands of the President alone. Yet the gentlemen from New York and Missouri were ready to vote the money, because they supposed it would be properly expended!

There never had lived, nor did live, in this or any other country, the man to whom he (Mr. S.) would confide a question of that description. It was one which the whole American people, by their representatives, were to decide. Whatever might be the vote which other Senators intended to give on this occasion, he could not think of vesting such an enormous power in the President. The Senator from New York had said that the money would not be expended by the President. What proof, Mr. S. desired to know, had the gentleman that it would not be expended? By the proposition itself, the President was told he might expend the appropriation if he thought proper. The other Senator [Mr. LINN] had intimated that it would be wisely expended. Now, what proof had the Senate that that would be the case? There was none, save their own belief in the infallibility, faith, and purity of one man. And to-night the Senate were called upon to give a power which he, for one, was free to confess he would not grant even to a Washington, or any other man that ever lived. Nay, he would not hesitate one moment in denying to Washington himself the power. No proposition could be more directly opposed to all the principles of the constitution and of the Government under which they lived than the one before the Senate. He therefore trusted that there would be no hesitation in rejecting it

Mr. WRIGHT observed that it was not his intention to say any thing which would lead to a protracted debate, nor was it his purpose to excite the feelings of any gentleman. There were two modes of debating a proposition. The first was, by poetic license; and the other was, by debating a proposition as it is. The honorable Senator from New Jersey had told the Senate, in his usual impassioned manner, that this was an appropriation of three millions, without specification or object. He had no answer to make to the assertion, but what was derived from hearing the amendment read by the Secretary of the Senate. The Senator, in his precipitancy, remarked that he (Mr. W.) had said that the money was

not to be expended. The gentleman was mistaken; for he (Mr. W.) said no such thing, but observed that he believed it would not be called for; though no man could tell what might be the issue of our relations with France. And they all knew what this appropriation was to be made for.

Mr. CLAY rose and said that the proposition was to appropriate three millions of dollars for the general purpose of increasing the naval and military service of the country, without any specification whatever of objects.

In principle, therefore, the honorable gentleman from New York must admit it was the same, whether the amount to be appropriated was three millions, fifty, or a hundred millions. Now, according to the constitution of the United States, Congress possessed the power to raise armies and create a navy; and under the practice of the Government from the commencement of it down to this time, in no instance had an army been raised without a specification of the amount of it, the rank and file of which it should consist, the officers who should command, &c. And he believed that, since the origin of this Government, there had been no increase or augmention of the navy, without a specification of the number and size of the ships that should be in commission, with every other particular. Now, for what objects was this appropriation intended? It was to be applied to the increase of the naval and military service, including fortifications. In other words, to authorize the President to increase the army, to increase the navy, to make new fortifications not authorized by careful surveys, and sanctioned by the estimates agreed to by Congress afterwards.

He appealed to the honorable Senators from New York and Missouri, as to whether that was a case like the ordinary cases where the President was directed to expend money for defined objects, for a specified and approved purpose, as in the erection of new or the completion of existing fortifications.

No, this appropriation was undefined and unlimited as to the manner in which it was to be expended. And he concurred entirely in the sentiment which had been expressed by the Senator from Virginia, that, when he should be prepared to vote for an appropriation of this character, he should be prepared to surrender every power they now enjoyed under this Government to the President. Mr. C. would add, that this appropriation was to be made without any recommendation as to its necessity, in a certain exigency, to prepare for war; and made, too, without the slightest intimation or prospect of a war, despite the official documents lately laid before the Senate, assuring them of the continuance of peace. If they were to have a war with a foreign Power, it would be a war of our own making—a war to be declared by this country.

If France had intended to make war, that intention would have been manifested just after the receipt of the President's message. But she did not do it; she waited for other action on the part of this Government; she went on to consider the bill of indemnity, and, according to the latest intelligence, the 24th of last month, the bill was still under consideration. Mr. C. deprecated a preparation for war, or which might lead to war, at this time, as calculated to keep up the excitement abroad, and prevent an early settlement of our claims. This proposition partook much of the character of the President's message; that unfortunate message, he might say; for it had produced a good deal of unpleasantness, and put in jeopardy the peace of the country. He entertained the opinion that money ought not to be taken out of the public treasury for any such purposes, and that Congress were bound to wait until the Executive recommended a certain course before they voted millions away, as was now proposed to be done. He (Mr. C.) hoped the amendment would be rejected.

Mr. BUCHANAN said he was astonished at the remarks which had been made by gentlemen on the subject of this appropriation. The most fearful apprehensions had been expressed; the destruction of our liberties had been predicted, if we should grant to the President 3,000,000 of dollars to defend the country, in case it should become necessary to expend it for that purpose before the next meeting of Congress. For his part, he could realize no such dangers.

Gentlemen have said, and said truly, that the constitution of the United States has conferred upon Congress, and Congress alone, the power of declaring war. When they go further, and state that this appropriation will enable the Executive to make war upon France, without the the consent of Congress, they are, in my humble judgment, entirely mistaken.

Sir, said Mr. B., what is the true nature, and what are the legitimate objects, of this appropriation? Do we not know that, although the President cannot make offensive war against France, France may make war upon us; and, that we may thus be involved in the hostilities in spite of ourselves, before the next meeting of Congress? If the Chamber of Deputies should determine to violate the treaty, and to fix an enduring stigma upon the public faith of the French nation, is it certain that France may not proceed a step further, and strike the first blow? Mr. Livingston himself, in the correspondence which had been communicated to us by the President, has expressed serious apprehensions that this may be the result. France may consider war, eventually, to be inevitable; she may, and I trust does, believe that we have determined not to submit patiently to her violation of a solemn treaty, and thus abandon the just claims of our injured citizens; and, taking advantage of our unprepared condition, she may commence hostilities herself. The first blow is often half the battle between nations as well as individuals. Have we any security that such will not be her conduct? Have we any reason to believe she will wait until we are ready? Her past history forbids us to indulge too securely in any such belief. If she should adopt this course, in what a fearful condition shall we place the country if we adjourn without making this appropriation? The Senate will observe that not a dollar of this money can be drawn from the treasury, unless it shall become necessary for the defence of the country, prior to the next meeting of Congress.

Another circumstance which renders this appropriation indispensable is, that Congress cannot possibly be convened by the President much before their usual time of meeting. There are, I believe, nine States in this Union who have not yet elected their Representatives to the next Congress. Some of these elections will take place in April, and others not till August, and even October. We have now arrived almost at the last hour of our political existence; and shall we leave the country wholly defenceless until the meeting of the next Congress? Gentlemen have warned us of the fearful responsibility which we should incur in making this appropriation. Sir, said Mr. B., I warn them that the responsibility will be still more dreadful, should we refuse it. In that event, what will be our condition should we be attacked by France? Our seacoast from Georgia to Maine will be exposed to the incursions of the enemy; our cities may be plundered and burnt; the national character may be disgraced; and all this whilst we have an overflowing treasury. When I view the consequences which may possibly flow from our refusal to make this grant, I repeat that the responsibility of withholding it may become truly dreadful. No portion of it shall rest upon my shoulders.

Our constitutional right to appropriate this money is unquestionable. Whilst I express this opinion, I am sorry that the present appropriation is not more specific in its objects. Appropriation bills ought to be passed in such a manner as to leave as little to executive discretion as possible. The purposes for which the money is to be applied ought to be clearly and distinctly stated. If there were time to do it, the bill might be improved in this respect. But, sir, this is an extraordinary crisis, and demands prompt action. We must now take it as it is, or not take it at all. There is no time left to make the changes which might be desired.

Gentlemen have contended that, under this appropriation, the President would be authorized to increase the army, and appoint as many new officers to command it as he thought proper. But this is not the case. He could not, under any just construction of this bill, raise a single new company, or appoint a single officer, not authorized by existing laws. No such power is conferred upon him by its terms. It will authorize him to expend three millions of the public money, should the contingency happen which it contemplates, for putting the vessels of war, now in ordinary, in a condition for actual service, and for completing those the building of which has already been authorized by Congress. The money may also be applied to the completion and repair of our fortifications, and in placing them in a state of security and defence against any attack. Should it become necessary to call out the militia, under existing laws, to garrison these fortifications, or defend our coast, this money may also be expended for that purpose. There is nothing in the language of the appropriation to justify the construction that the President might raise new armies and create new officers to command them.

It is my own impression that there will be no necessity for expending any portion of this money. If there should be, however, and it is the part of wisdom to provide against such a contingency, let the responsibility rest upon those who refuse the appropriation. The country will be left defenceless, and the very knowledge of the circumstance may invite an attack.

Mr. CALHOUN remarked that the argument of the Senator from Pennsylvania rested on the assumption that we might be suddenly involved in a war with France. Now, that was an event which he (Mr. C.) did not contemplate, and he should consider it as extraordinary and unlooked for as that this Capitol should be swallowed up by an earthquake before Congress again met in this city, and that, therefore, an appropriation was requisite! France declare war against us! What rational motive could she have for doing so? France declare war! No, no. France had no cause or motive for declaring war against us. It was for this country to declare war against France, if she did not fulfil her promises. He considered this amendment, if passed, as amounting almost to a declaration of war. Gentlemen expressed confidence that this great power would not be abused by the President; that he would not expend the money, or would expend it wisely. Confidence was not a republican virtue, nor was discretion a republican principle; and it was only necessary to glance at the enormous expenditures of this Government to be convinced of that fact. Let gentlemen look at and consider for a moment what was the present condition of the Indian department, the land office, and the Post Office Department, and they must see that it was idle to talk about there being no danger in reposing confidence in men. He would not trust any man with such an enormous power as was now proposed to be vested in the Chief Magistrate by this amendment. He (Mr. C.) would speak boldly. There was a war party in this as well as every other country—a party deeply interested in the existence of war—a party who were engaged in the business of jobbing, and contracting, and of party-making. He knew the force and magnitude of the corps who lived at the expense of the federal Government. It was already very enormous, and a war would double its numbers. He had said at the opening of this session that they would increase, and he believed that time would bear him out in his prediction. All that he had seen confirmed him in that belief. And, in regard to this appropriation, it would give a vast control to the Executive, for it was to be applied according to his will and pleasure, and he might involve the country in a war. Mr. C. was really surprised that the proposition of the House should have received any sanction in that Senate; for it was a most extraordinary one, in whatever light it might be viewed. How happened it that such an amendment should have been introduced into the bill? It was not by the recommendation of the Executive, it would appear, and yet gentlemen had thought proper to rise in their places and vindicate him. Congress were bound to have the opinion of the President as to whether or not he desired means to be placed at his disposal to provide for a certain contingency. Yet, here was a proposition to give him three millions, without being asked to do so. We certainly lived in extraordinary times, and we were going step by step (and this was one of them) on the high road to despotism. He was altogether against the creation of this dictatorial power, and concurred most fully in the remark of the Senator from Virginia, that he would as soon confer a dictatorship as give such a power as was now proposed to the Executive, let him be who he might.

Mr. PRESTON expressed his surprise at the extraordinary amendment which had been made to the bill by the House of Representatives, at that late hour of the session, when the waning sands of their political existence, as a body, were nearly run out. They were called upon to confer a most tremendous power, by placing at the disposal of the Chief Magistrate of the Union the sum of $3,000,000! He was already appointed commander of the army and navy of the United States, and now the Senate was asked to confer upon him the power to raise armies and create navies, and that, too, on the very last night of the session, almost without time for a moment's deliberation. They were in fact and in truth to give him power over the purse and the sword, and consequently over the liberties of the country. He meant to express no distrust in the Chief Magistrate; but, he would ask, was it proper that any Congress should unconstitutionalize itself by surrendering the powers committed to their hands? Yes, here was a most extraordinary proposition presented for the consideration of the Senate, at the very heel of the session, when there was not time to debate or consider the subject. He could not vote for any proposition of the kind. When the time should arrive which would render it necessary for Congress to act, for the purpose of putting the country in a state of defence, and building ships, that we might send our gallant flag into every sea, he would be found as ready as any Senator on that floor to carry into execution every thing that would tend to the honor and advantage of his country. The Senator from Pennsylvania had expressed his unwillingness to assume the responsibility of leaving the country without making the appropriation asked for by the other House, although the President had not sent any message on the subject to Congress. He (Mr. P.) confessed that he was oppressed with anxiety to see such an appropriation as that demanded. Three millions of dollars to be thus voted away! He knew well, as had been said, that there was a war party in this and every country. He felt it was so. We had once gone to war, and were not disgraced; on the contrary, we came out victoriously, and were then respected by our ancient foes and ancient allies. We were now

differently situated, and it was not politic to plunge the country into a war. The gentleman [Mr. BUCHANAN] had said that accidents might occur before the meeting of Congress. Did the Senator mean to say that France might declare war against the United States? Congress must not legislate for accidents, but probabilities. And who could make war between the two countries? None but Congress. For what was France going to war with us? To compel us to receive the payment of that which it owes this Government? If it was not that, then he was at a loss to discover what conceivable purpose France could have in adopting that course. Mr. P. concluded by saying that, unless some more cogent reasons were adduced than what he had heard, for making this appropriation, he should most assuredly vote against it.

Mr. WEBSTER thought it impossible that the Senate could hesitate about the rejection of this most extraordinary and objectionable proposition, and he hoped the decision would be made without further delay. It was now nine o'clock at night, and further discussion could have no effect but to defeat other important business. He therefore entreated the Senate to desist from debate, and proceed to vote.

Mr. CUTHBERT said he should be as glad to vote as any gentleman on the majority side of the House. He had heard harangues from that quarter, some of which were most certainly out of place. When he heard it insinuated that, because the Executive was to have means placed at his disposal in order to increase the army, and take such other measures as he might deem necessary for the defence of the country, he might turn round and employ them to destroy the liberties of the people, he (Mr. C.) would put it to honorable Senators whether such language was not extravagant in the extreme?—whether the sentiments they had expressed were not rather the illusions of a heated brain, than of a cool and well-considered judgment? He contended that this country ought to put itself in a state of defence, in order to show France that we were prepared to enforce the fulfilment of the treaty, if necessary, by an appeal to arms; that we were determined to maintain our rights, as we had asserted we would do. Did gentlemen shrink from doing that which they themselves had told the Senate was necessary to be carried into effect when a certain period should have arrived? If we meant to maintain our rights, we must do so, if absolutely necessary, by our arms and our blood. France dreads what we might do; and, under that dread, she would increase her strength; and, perhaps, thinking it brilliant and splendid, might take it into her head to give us the first and decisive stroke. Did not every gentleman's knowledge of history teach him that such an event might take place? He appealed to Senators on the other side, whether there were not innumerable examples of the kind to be found in the history of naval warfare, where a nation, in first possession of the ocean, was the first to strike a decisive blow at its antagonist? This would generally be found to be the case.

Now, he would ask, what had been done by the House of Representatives? What did it seek by its amendment? Why, merely to provide the proper means that the country should be put in a state of defence, in the possibility that we might be attacked by that Power with whom we had had some differences. What gentleman was there on that floor who would not reproach himself, (supposing the appropriation not to be made,) if such an event were to happen as he (Mr. C.) had imagined? Who would not regret that the navy had not been increased, when they saw our coasts blockaded, our waters covered by the enemy's ships, and our beautiful cities battered down? What, then, was there so extraordinary in the terms of the amendment? For his own part he thought it highly proper that the appropriation should be made, that the President should have the means necessary to put the country in that state which circumstances required.

The question was then taken on disagreeing to the amendment of the House, and was decided in the affirmative, as follows:

YEAS—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, White—29.

NAYS—Messrs. Benton, Black, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Morris, Robinson, Ruggles Shepley, Tallmadge, Tipton, Wright—19.

So the amendment was rejected.

The amendment of the Senate, to increase the appropriation of $70,000 to $150,000, for repairing Fort Mifflin, which was disagreed to by the House of Representatives, was next taken up.

Mr. CLAYTON moved that the Senate insist on their amendment; which motion was agreed to, and the bill was then returned to the other House.

On motion of Mr. CLAYTON, the Senate proceeded to the consideration of executive business, and spent some time with closed doors.

[When the doors were opened, and the reporters entered the gallery, they found that a message had been received from the House by the Senate, while in secret session, announcing that the House insisted on its amendment, proposing to place three millions at the disposal of the President. Before it was known that the doors had been opened, it appeared that this message of the House had been taken up, that Mr. WEBSTER had moved that the Senate adhere to its disagreement to the appropriation, and had followed his motion with a speech of uncommon animation and earnestness in its support. This speech he was just concluding when the reporters re-entered the gallery.]

Mr. KING, of Alabama, said he very much regretted that the Senator from Massachusetts should have made such a motion; it had seldom or never been resorted to until other and more gentle means had failed to produce a unity of action between the two Houses. At this stage of the proceeding it would be considered (and justly) harsh in its character; and, he had no doubt, if sanctioned by the Senate, would greatly exasperate the other House, and probably endanger the passage of the bill altogether. Are gentlemen, said Mr. K., prepared for this? Will they, at this particular juncture, in the present condition of things, take upon themselves such a fearful responsibility as the rejection of this bill might involve? For himself, if your forts are to be left unarmed, your ships unrepaired and out of commission, and your whole seacoast exposed without defences of any kind, the responsibility should not rest upon his shoulders. It is as well, said Mr. K., to speak plainly on this subject. Our position with regard to France was known to all who heard him to be of such a character as would not, in his opinion, justify prudent men, men who look to the preservation of the rights and the honor of the nation, in withholding the means, the most ample means, to maintain those rights and preserve unimpaired that honor.

Mr. K. said, while he was free to confess that the proposed appropriation was not in its terms altogether as specific as he could have wished it, he could not view it in the light which had, or seemed to have, so much alarmed the Senator from Massachusetts, and others who had spoken on the subject. We are told, said Mr. K., that the adoption of the amendment made by the House will prostrate the fortress of the constitu-

tion, and bury under its ruins the liberties of the people. He had too long been accustomed to the course of debate here, particularly in times of high party excitement, to pay much attention to bold assertion or violent denunciation. In what, he asked, does it violate the constitution? Does it give to the President the power of declaring war? You have been told, and told truly, by my friend from Pennsylvania, [Mr. BUCHANAN,] that this power alone belongs to Congress; nor does this bill in the slightest degree impair it. Does it authorize the raising of armies? No, not one man can be enlisted beyond the number required to fill up the ranks of your little army; and whether you pass this amendment or not, that power is already possessed under existing laws. Is it, said Mr. K., even unprecedented and unusual? A little attention to the history of our Government must satisfy all who heard him, that it is neither the one nor the other.

During the whole period of the administrations of General Washington and the elder Adams, all appropriations were general, applying a gross sum for the expenditure of the different departments of the Government, under the direction of the President; and it was not till Mr. Jefferson came into office, that, at his recommendation, specific appropriations were adopted. Was the constitution violated, broken down, and destroyed, under the administration of the Father of his Country? Or did the fortress to which the Senator from Massachusetts, on this occasion, clings so fondly, tumble into ruin, when millions were placed in the hands of Mr. Jefferson himself, to be disposed of for a designated object, but, in every thing else, subject to his unlimited discretion? No, said Mr. K., our liberties remained unimpaired; and, he trusted in God, would so remain for centuries yet to come. He would not urge his confidence in the distinguished individual at the head of the Government as a reason why this amendment should pass; he was in favor of limiting executive discretion as far as practicable; but circumstances may present themselves, causes may exist, which would place it out of the power of Congress promptly to meet the emergency. To whom, then, should they look? Surely to the head of the Government--to the man selected by the people to guard their rights and protect their interests. He put it to Senators to say whether, in a possible contingency, which all would understand, our forts should not be armed, or ships put in commission? None will venture to gainsay it. Yet the extent to which such armament should be carried must, from the very necessity of the case, be left to the sound discretion of the President. From the position he occupies, no one can be so competent to form a correct judgment, and he could not, if he would, apply the money to other objects than the defences of the country. Mr. K. said he would not, at this last moment of the session, when time was so very precious, further detain the Senate than to express his deep apprehension, his alarm, lest this most important bill should be lost by this conflict between the two Houses. He would beg of Senators to reflect on the disastrous consequences which might ensue. He would again entreat the Senator from Massachusetts to withdraw his motion, and ask a conference, and thus learn some reasonable ground for hope of ultimate agreement on this most important subject.

Mr. POINDEXTER said he should vote to adhere. He was not for temporizing with such a proposition as that under consideration. For five years he had stood on the floor of that Senate to defend, to the best of his poor ability and judgment, that glorious constitution which had been handed down to them by the wise and enlightened patriots who framed it. And he thanked God that the last vote he should perhaps ever give here, would be recorded in defence of the charter of our liberties—the constitution of the United States. Ever since he had had the honor of a seat in that Senate, he had seen power progressively increasing, marching on, step by step, approximating to supreme authority in one head. He had seen in the practical operations of this Government, though not positively claimed in terms, the whole of its legislative power attempted to be wrested from the hands of Congress, and exercised by the Chief Executive, under the plea of arresting loose legislation. He had seen the whole of the appointing power taken from the Senate, which was intended by the framers of the constitution to be a check on the executive department. He had seen solemn charters violated without trial by jury; and, on that floor, and elsewhere, had known such violations to be vindicated. He had, in short, seen every thing calculated to astonish him—every thing, except the proposition then before the Senate, which was to clothe the President with power over the liberties of the nation, to give him three millions of dollars to do what he pleased with. Who had ever heard of such a monstrous proposition? It was without precedent, was never before heard of; and he (Mr. P.) would venture to say that, within six months, the Chief Magistrate could plunge this country into a state of hostility with France. That he would do so, he (Mr. P.) did not know, for he could not say what his action would be; but most unquestionably he would have the power to bring upon the country such a calamity, if this appropriation were to pass the Senate. He (Mr. P.) would, therefore, protest against any proposition which would have the effect of separating the connexion existing between the several powers of this Government. Whenever the barriers which divided the legislative from the executive powers of this Government were broken down, that instant we might call our system what we pleased, for it mattered not, but it would cease to be a Republic. And that very section sent to the Senate capped the climax of all the strides he had witnessed there towards the consummation of all power in the hands of one man. He should hope the Chief Magistrate would spurn such a proposition. If he did not, it would be to accept the crown of the Cæsars, and be the instrument of prostrating the liberties of his country. He (Mr. P.) could not believe that he held such sentiments, and would be willing to prostrate the fair fame he had acquired in the field of battle—that fame which history accorded to him—and consent to be the cause of introducing into our system what was inconsistent with the idea entertained in regard to free Government.

Mr. P. said he himself had experienced more than an ordinary share of the persecutions of power since he had had the honor of a seat here. Every thing had been brought to bear on him, in order to create an ill feeling between him and his constituents. All the means which power possessed had been put into action to effect that object. Yes, he had experienced all that. Towards the members of the Senate, however, on both sides, he entertained the kindest feelings and greatest regard. But in respect to those friends with whom he had been accustomed to act in defending the constitution and laws of the country—towards them he confessed he could not find language to express what he felt. He would, nevertheless, say to those honorable friends, on the eve now of separating from them, "Go on; boldly pursue your noble and righteous cause; do not, because of a few reverses, suffer yourselves to be disheartened: for the people of this country, according to my poor conceptions, will awaken to the deception of a popular name and popular action, and listen to your warnings."

Mr. LEIGH said he was really at a loss to perceive

how this indefinite appropriation of millions was to be justified by any thing that had been done during the administration of Mr. Jefferson. Would the Senator from Alabama [Mr. KING] be good enough to hint to him the occasion on which millions had been placed by Congress at the uncontrolled disposal of President Jefferson?

[Mr. KING explained that a very large appropriation was made during the administration of Mr. Jefferson, to enable him to take such measures as he might deem necessary in order to secure Florida; and secret agents were appointed to carry the object into effect.]

Mr. LEIGH resumed: He remembered very well that there was made, in secret session, an appropriation of $2,000,000, in order to enable Mr. Jefferson to open a negotiation for the purchase of Florida; and he, instead of making the purchase at that time, negotiated the purchase of Louisiana, without employing a dollar of the money thus appropriated. That was the case to which he (Mr. L.) supposed the gentleman alluded. He would take upon himself to affirm that no instance could be found, either during the administration of Mr. Jefferson or of any other President, of an appropriation having been made which bore the least resemblance to this; but he did not rise for the purpose of making that single remark—his object being to make two others. The first one was, that the argument addressed to that Senate by the Senator from Alabama was precisely, in so many words, the argument that was once addressed to the Senate and people of Rome, as a reason for the appointment of a Dictator, namely: that, in times of excitement and difficulty, it was absolutely necessary that the whole powers of the Government should be placed in the hands of one man! Give the Chief Magistrate this appropriation, (said Mr. L.,) and you establish the office of Dictator.

The second remark he had to address to the Senator from Alabama was this: Had he apprehended, or did he now apprehend, that absolute power should be vested in one man in consequence of any danger which threatened the country, and lest it should be found unprepared, instead of being ready, to resist all aggression? He (Mr. L.) apprehended that the opinion entertained by the honorable Senator was not adopted without due consideration, and after long and deliberate reflection. Why had not the honorable Senator, then, proposed certain means of defence, which might have been acted upon according to the discretion of the Senate, instead of throwing all the responsibility attached to the proposed appropriation upon the President? If any gentleman had come forward with a proposition that a law should be passed, directing that the country should be armed for its defence, it might have been gravely and deliberately debated, and he (Mr. L.) would have given to the subject that consideration and attention which was due to it; but no such proposition had been made to the Senate. Here Senators had been unanimously resolving that no legislative measures were necessary; nay, not one human being considered that legislative measures were necessary, in regard to France; and, after the resolution in relation to the matter had passed, not one breath of objection was raised against it. Yet now, on the very last night of the session, was brought forward a proposition to enable the President to arm the nation for its defence, and, to effect that object, there was to be put in his hands the sum of $3,000,000! Yes, $3,000,000, to accomplish that object! without limitation, restriction, or any defined purpose of application. Thus, by that very proposition, the liberty and constitution of the country were not only to be voted away, but they were called on to vote it with so much precipitation, that it would seem as if the whole Government of the land was to be completely and instantly abandoned. Surely a subject of so important a character as this, instead of being so hastily passed upon, ought to undergo the maturest discussion.

Did not the gentleman from Alabama well know, did not every gentleman conversant with the history of mankind perfectly well know, that, when one nation begins to arm, the other nation, also, begins to arm? That putting on armor, and the attitude of war on our part, would induce France to do the same on her part? There never was an instance of a nation, (unless it was absolutely destitute of means,) that did not immediately arm itself when it saw another doing so, and between whom and itself there had been some difficulty.

Then, France and the United States were both to have arms placed in their hands, it appeared. The language of the poet was, "*Furor arma ministrat.*" Take the converse of the matter—"*Arma furorem ministrant.*" Some parties thus appealed to arms; others to harangues and arms; but when two nations armed against each other, they were easily put in a position of war. He would contend that, by the constitution, we had no power to arm in a time of peace, except a war were likely to happen; and hence it was that, whenever unusual appropriations were made to provide the means of defence, from that moment the nation was preparing for war, and it was incidental to war. He was an advocate for peace, and not for war; and, for his part, he would as soon vest the President with the power of life and death, as give him this great appropriation in the unrestricted mode proposed; nay, he would not give him power over the vilest wretch that ever disgraced human nature, if that power were not in accordance with the established law of the land; for the principle of our constitution was to put power into no man's hand which, by possibility, he might abuse. Mr. L. trusted that the Senate would adhere to its disagreement to the amendment.

Mr. WHITE addressed the Senate to the following effect:

Mr. President: When the question to disagree to this amendment was before the Senate, for the sake of economising our time, I contented myself with recording my vote without assigning any reasons for it. This I cannot do a second time.

This amendment was made by the House without any intimation from the President that such an appropriation would be, in his opinion, necessary. It was made without any estimate from any Department. Had the President believed the interest of the country required it, he would, without doubt, have so informed us, and accompanied his message with the proper estimates, because it was his duty to have done so; and, for one, I will not suspect him of an omission to perform his duty. If any member of either House believed an appropriation would be necessary, and that the President was likely to omit the necessary application to Congress, he could have submitted a resolution calling upon the Executive for information and the necessary estimates, and, in answer to such a resolution, we could have been furnished with the views and wishes of the Executive. Nothing of this kind has been done; and yet, in the very last moments of the session, this amendment has been introduced, out of the ordinary course of business, and in such manner as to deprive us of all means of procuring any information from the Executive.

But, Mr. President, there is another view of this subject presented to my mind so forcibly that I must be allowed very briefly to state it to the friends of the Chief Magistrate. I profess to be among the number of his friends, reposing as much confidence in him as any man on this floor or elsewhere. I have not the most distant suspicion that one dollar of this money, intrusted to him, would be intentionally misapplied. But I beseech gentlemen to reflect on the situation in which we will place him by making this appropriation. It will be a plain admonition to him, that both Houses of Congress

think the situation of our foreign affairs requires that our country should be immediately placed in a better state of defence than it now is, that our navy should be increased, that our army should be increased, that our fortifications should be increased, and that additional munitions of war should be provided; and yet to throw upon him the whole responsibility of determining to what extent any or all of these preparations shall be made. He is to determine how many additional ships, how many additional troops, how many additional fortifications shall be provided. What will be the consequence? Every means will be used to induce him immediately to increase all these. The friends of the navy and of the army will each be importunate for an increase. Every Atlantic city will be urging an increase of fortifications for its defence. If he yields to these importunities, and expends this money, and the country remains in tranquillity and peace, as I hope it will, in what situation will the President be placed? Will not his enemies at once say, this money, placed at his discretion, has been wasted; the navy has been increased as we did not expect; here is a large addition to the army which we know not what to do with; and here are fortifications to rot on our hands--fortifications constructed in such haste as to be of no permanent use. On the other hand, if he will not attend to our admonition, and increase the navy, the army, and fortifications, and danger should come, what then? These very same men will say, plenty of funds were placed at his disposal, and yet he has taken no step to prepare the country for defence.

Is it an evidence of friendship to place the President in such a situation? I think not. It seems to me to be a cruel course towards him. If we really believe our foreign relations wear such a threatening aspect as to make preparations necessary, let Congress, with his advice, say how many additional ships shall be built, how many additional soldiers we shall enlist, (for we have officers enough,) and how many additional fortifications shall be erected, and where. This will be taking that responsibility Congress ought to bear, and it will leave to the President the task of seeing that these preparations for defence are made.

Any other course is unjust to the country, and cruel towards the President. If preparations are necessary, I am ready to make them, to any extent, and to incur my share of the responsibility. I have the most entire confidence that not one cent of this money will be intentionally missapplied by the Executive, should the appropriation be made; but I have no idea that, in this extraordinary mode, in this singular manner, such a provision shall be made as will ease us of a responsibility which we ought to bear, and throw upon the President a burden which, struggle with it as he may, cannot fail to injure him. Upon these principles I have once voted against this amendment, and am prepared to maintain that vote by recording another to the same effect.

Mr. WRIGHT hoped the Senate would not adhere to their disagreement. He felt himself bound to state that he did not know but that he had heard of the constitution being broken down, destroyed, and the liberties of the country overthrown, so frequently in that Senate, as to render him callous to the real state of things. For the last sixteen months those fears and forebodings had been so strongly and often expressed on that floor that they had been forcibly impressed upon him; yet, he must say that he was incapable of perceiving a particle of their effects. No evidence had he seen of them; nor could he now partake of the alarm which some gentlemen pretended to feel, when he saw that the asseverations made at this time came from the same source. What had the Senate now before it? A bill from the House of Representatives—from the immediate representatives of the people, proposing to provide for the defence of the country. What had honorable Senators debated? The danger of executive power. Were, he would ask, those representatives sitting at the other end of that Capitol the most likely to contribute to that danger? Was that the source from which Senators were compelled to look for danger in that respect? Such an idea had never occurred to his mind. Under what circumstances did the members of the other body present the appropriation? He believed, and he spoke on good authority, that our minister at the court of France had informed this Government that it was problematical that the French might strike the first blow against us, by detaining our fleet now in the Mediterranean. Congress were on the point of adjourning; and, being in possession of such advices from our minister, they had thought proper to act as they had done in regard to this appropriation. And he would inquire, by what notion it was that the Senate were to be impressed with the danger of putting this power into the hands of the Executive—that our liberties were to be destroyed and the constitution trampled upon? Ay, in making an appropriation for the defence and safety of the country from a foreign enemy?

The honorable Senator (continued Mr. W.) has exhibited to us the danger—of what? Not of a foreign enemy, for he would hardly dread the landing of a foreign foe at our doors—but a domestic enemy is to ruin us! I remember, though it was at a period when I was very young, that a certain portion of the country held the same opinion as the honorable Senator, and, when a foreign enemy did land in it, no alarm was shown, but the people there were alarmed at the domestic enemy. How was the foreign enemy met, as the honorable Senator has most eloquently said, "breast to breast?" No; that enemy was seen holding a bible in his hand, and the American citizen putting his hand upon it, and swearing allegiance to the British Government. Such is not my feeling in regard to a foreign enemy. I would prepare to repulse him at the first step. I would prepare to prevent him touching my native soil, if I had it in my power. Mr. W., in conclusion, said that the other House had devoted a great deal of time to the consideration of the whole subject, and had come to the conclusion that an appropriation ought to be made. He trusted the Senate would not adhere to their disagreeing vote.

Mr. WEBSTER said he had heard the gentleman from New York make an allusion to a particular part of the country, during the war with England, as being more fearful of domestic than of foreign enemies. It was necessary for him at once to come to an understanding with the honorable member. He desired to know whether he meant any thing by those remarks. He felt that his public situation entitled him to a direct answer; and he asked the honorable member, therefore, to say, explicitly, whether he had intended to insinuate, in any manner or degree, that his (Mr. W's) conduct, during that war, manifested any want of disposition to repel the public enemy?

Mr. WRIGHT said, in reply, that it was not till after that period that he had become acquainted with the Senator from Massachusetts, in his public character, and therefore could have had no such intention.

The question was then taken on adhering, and decided as follows:

YEAS—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, White—29.

NAYS—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Ruggles, Robinson, Shepley, Tallmadge, Tipton, Wright—17.

So the Senate adhered to their disagreement to the amendment.

The House further insisted, and asked a conference; which being immediately granted by the Senate, Messrs. WEBSTER, FRELINGHUYSEN, and WRIGHT, were appointed conferees on the part of the Senate.

Shortly afterwards, Mr. WEBSTER reported that the committees of conference had agreed, in lieu of the amendment of the House, to recommend the adoption of the following appropriations:

"As an additional appropriation for arming the fortifications of the United States, three hundred thousand dollars.

"As an additional appropriation for the repairs and equipment of the ships of war of the United States, five hundred thousand dollars."

The House having possession of the bill and papers, the Senate could not act on the report until it heard from the other House.

After waiting some time, on motion of Mr. WEBSTER, the Senate adopted the following resolution:

Resolved, That a message be sent to the honorable the House of Representatives, respectfully to remind the House of the report of the committee of conference appointed on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill respecting the fortifications of the United States.

The Senate then waited still a good while longer, and not hearing, sent still another message, informing the House that they, the Senate, had no further business before them. No answer coming to this message, the Senate, after waiting a considerable time longer, and hearing nothing from the bill, adjourned, *sine die*.

DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

LIST OF MEMBERS

Of the House of Representatives, twenty-third Congress, second session.

MAINE—George Evans, Joseph Hall, Leonard Jarvis, Edward Kavanagh, Moses Mason, Jun., Rufus McIntire, Gorham Parks, Francis O. J. Smith—8.

NEW HAMPSHIRE—Benning M. Bean, Robert Burns, Joseph M. Harper, Henry Hubbard, Franklin Pierce—5.

MASSACHUSETTS—John Quincy Adams, Isaac C. Bates, William Baylies, George N. Briggs, Edward Everett, Benjamin Gorham, George Grennell, Jun., William Jackson, Levi Lincoln, Gayton P. Osgood, Stephen C. Phillips, John Reed—12.

RHODE ISLAND—Tristam Burges, Dutee J. Pearce—2.

CONNECTICUT—Noyes Barber, Ebenezer Jackson, Phineas Miner, Joseph Trumbull, Samuel Tweedy, Ebenezer Young—6.

VERMONT—Heman Allen, Horace Everett, Hiland Hall, Henry F. Janes, William Slade—5.

NEW YORK—John Adams, Samuel Beardsley, Abraham Bockee, Charles Bodle, John W. Brown, Churchill C. Cambreleng, Samuel Clark, John Cramer, Rowland Day, John Dickson, Charles G. Ferris, Millard Fillmore, Philo C. Fuller, William K. Fuller, Ransom H. Gillet, Nicoll Halsey, Gideon Hard, Samuel G. Hathaway, Abner Hazeltine, Edward Howell, Abel Huntington, Noadiah Johnson, Gerrit Y. Lansing, George W. Lay, Abijah Mann, Jun., Henry C. Martindale, John J. Morgan, Charles McVean, Henry Mitchell, Sherman Page, Job Pierson, William Taylor, Joel Turrill, Aaron Vanderpoel, Isaac B. Van Houten, Aaron Ward, Daniel Wardwell, Reuben Whallon, Campbell P. White, Frederick Whittlesey—40.

NEW JERSEY—Philemon Dickerson, Samuel Fowler, Thomas Lee, James Parker, Ferdinand S. Schenck, William N. Shinn—6.

PENNSYLVANIA—Joseph B. Anthony, John Banks, Charles A. Barnitz, Andrew Beaumont, Horace Binney, George Burd, George Chambers, William Clark, Richard Coulter, Edward Darlington, Harmar Denny, John Galbraith, James Harper, Samuel S. Harrison, William Hiester, Joseph Henderson, Henry King, John Laporte, Thomas M. T. McKennan, Joel K. Mann, Jesse Miller, Henry A. Muhlenberg, David Potts, Jun., Robert Ramsay, Andrew Stewart, Joel B. Sutherland, David D. Wagener, John G. Watmough—28.

DELAWARE—John J. Milligan—1.

MARYLAND—Richard B. Carmichael, James P. Heath, William Cost Johnson, Isaac McKim, John N. Steele, John T. Stoddert, Francis Thomas, James Turner—8.

VIRGINIA—John J. Allen, William S. Archer, James M. H. Beale, James W. Bouldin, Joseph W. Chinn, Nathaniel H. Claiborne, Thomas Davenport, John H. Fulton, James H. Gholson, William F. Gordon, George Loyall, Edward Lucas, John Y. Mason, William McComas, Charles F. Mercer, Samuel McDowell Moore, John M. Patton, John Robertson, William P. Taylor, Edgar C. Wilson, Henry A. Wise—21.

NORTH CAROLINA—Daniel L. Barringer, Jesse A. Bynum, Henry W. Connor, Edmund Deberry, James Graham, Thomas H. Hall, Micajah T. Hawkins, James J. McKay, Abraham Rencher, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams—13.

SOUTH CAROLINA—Robert B. Campbell, William K. Clowney, Warren R. Davis, John M. Felder, William J. Grayson, John K. Griffin, Richard J. Manning, Francis W. Pickens, Henry L. Pinckney—9.

GEORGIA—Augustine S. Clayton, John Coffee, Thomas F. Foster, Roger L. Gamble, George R. Gilmer, Seaborn Jones, William Schley, James M. Wayne, Richard H. Wilde—9.

KENTUCKY—Chilton Allan, Martin Beaty, Thomas Chilton, Amos Davis, Benjamin Hardin, Albert G. Hawes, Richard M. Johnson, Robert P. Letcher, James Love, Chittenden Lyon, Thomas A. Marshall, Patrick H. Pope, Christopher Tompkins—13.

TENNESSEE—John Bell, (Speaker,) John Blair, Samuel Bunch, David Crockett, David W. Dickinson, William C. Dunlap, John B. Forester, William M. Inge, Cave Johnson, Luke Lea, Balie Peyton, James K. Polk, James Standefer—13.

OHIO—William Allen, James M. Bell, John Chaney, Thomas Corwin, Joseph H. Crane, Thomas L. Hamer, Benjamin Jones, Daniel Kilgore, Robert T. Lytle, Jeremiah McLene, Robert Mitchell, William Patterson, Jonathan Sloane, David Spangler, John Thomson, Joseph Vance, Samuel F. Vinton, Taylor Webster, Elisha Whittlesey—19.

LOUISIANA—Rice Garland, Henry Johnson, Philemon Thomas—3.

INDIANA—Ratliff Boon, John Carr, John Ewing, Edward A. Hannegan, George L. Kinnard, Amos Lane, Jonathan McCarty—7.

MISSISSIPPI—Harry Cage, Franklin E. Plummer—2.

ILLINOIS—Zadok Casey, William L. May, John Reynolds—3.

ALABAMA—Clement C. Clay, Dixon H. Lewis, Samuel W. Mardis, John McKinley, John Murphy—5.

MISSOURI—William H. Ashley, John Bull—2.

DELEGATES.

MICHIGAN TERRITORY—Lucius Lyon.

ARKANSAS TERRITORY—Ambrose H. Sevier.

FLORIDA TERRITORY—Joseph M. White.

MONDAY, DECEMBER 1.

The House of Representatives assembled this morning. The honorable JOHN BELL, Speaker, took the chair and called the House to order.

The roll of the House was called by the Clerk, in the order of States, upon which it appeared that there were 188 members present. The names of the new members were then called; when the following gentlemen answered to their names, were qualified, and took their seats, viz:

Stephen C. Phillips, from Massachusetts; Ebenezer Jackson, Phineas Miner, and Joseph Trumbull, from Connecticut; Charles G. Ferris, and John J. Morgan, from New York; John Robertson, from Virginia; Robert P. Letcher, from Kentucky; Daniel Kilgore, from Ohio; Henry Johnson, from Louisiana; William L. May, and John Reynolds, from Illinois.

After passing the usual resolutions for appointing a joint committee to wait upon the President of the United States, and directing a message to be sent to the Senate to inform them that a quorum was present; regulating the supply of newspapers; and fixing the hour of meeting at 12 o'clock,

The House adjourned.

TUESDAY, DECEMBER 2.

HENRY F. JANES, elected a Representative from the State of Vermont, to supply the vacancy occasioned by the death of the honorable Benjamin F. Deming, appeared, and was qualified.

Mr. McKINLEY, from the joint committee (consisting, on the part of the House, of Messrs. McKINLEY and LANSING) appointed to wait on the President of the United States, and inform him that the two Houses were organized, and ready to receive from him any communication which he might have to make, reported that the committee had discharged that duty, and had received for answer that the President would send a message in writing to each House of Congress this day at 12 o'clock.

The message was then received from the President of the United States, by the hands of his private secretary, Mr. A. J. Donelson, and read by the Clerk of the House. (See Appendix.)

On motion of Mr. CONNOR, it was ordered that the message be committed to the Committee of the Whole House on the state of the Union, and that ten thousand copies of the message, and the documents accompanying it, be printed for the use of the House.

The House then adjourned.

WEDNESDAY, DEC. 3.

DEATH OF MR. SLADE.

Mr. CASEY, of Illinois, rose, he said, to offer a resolution to the House, expressive of the respect of the members of this body for the memory of the honorable CHARLES SLADE, late one of the Representatives from Illinois on this floor. In submitting the resolution, which I now have the honor to do, for the consideration of the House, it is not my purpose, said Mr. C., to trespass on its time or attention by a labored eulogy on the character of my late distinguished colleague and much esteemed friend, now no more. He died near Vincennes, in Indiana, of that scourge of nations, cholera, on his way home from attending the last session of Congress. His amiable manners, his mild and benevolent disposition, his sound sense, and untiring devotion to his legislative duties while here, have made a lasting impression on all who knew him. He had a heart that responded to every advance of sympathy and benevolence, a heart formed for the most ardent attachments. Open and undisguised, the prominent traits of his character were always before the world. But, suffice it to say that, though the dust of CHARLES SLADE now sleeps with that of his fathers, he still lives in the hearts of hundreds and thousands of his countrymen, who, with sincerity, deplore his death. I therefore respectfully ask the members of this House to concur with me in this humble, this last tribute of respect to his memory. Mr. C. concluded by offering the following resolution, which was agreed to, *nem. con.*

Resolved, unanimously, That the members of this House will testify their respect for the memory of CHARLES SLADE, deceased, late a member of this House from the State of Illinois, by wearing crape on the left arm for one month.

DEATH OF MR. DEMING.

Mr. JANES, of Vermont, rose and said it had become his melancholy duty to announce to the House the death, since the last session, of another of its number. The honorable BENJAMIN F. DEMING, of Vermont, departed this life, said Mr. J., on the 11th of July last, on his way from this place to his home in that State. The deceased had been but a short time a member of this body, but long had held a distinguished place in the councils of his native State; and was there, and wherever else known, universally esteemed and beloved as an enlightened and honest statesman, as an amiable citizen, as a Christian of pure and unsullied morals. However flattering it may be to hold a seat on the floor of this House, to me it is deeply affecting that the one I have the honor of occupying has been made vacant by the death of an able legislator—by the removal from his family of an affectionate husband, a kind parent, and from me a long and most valued personal friend! But if we be permitted to gather hope from the public and private walk, the rectitude of moral character, the daily Christian deportment of man, few, if any, have left more comforting, more enduring evidences, than the deceased, that he has now a crown of immortality, an eternal rest. In testimony of our respect, I move the following resolution.

Mr. J. then submitted the following resolution, which was adopted, *nem. con.*

Resolved, unanimously, That the members of this House will testify their respect for the memory of BENJAMIN F. DEMING, deceased, late of the State of Vermont, by wearing crape on the left arm for one month.

The House then adjourned.

THURSDAY, DECEMBER 4.

On motion of Mr. WHITTLESEY, of Ohio, it was ordered that the standing committees of the House be appointed.

On motion of Mr. GRENNELL,

Resolved, That two chaplains, of different denominations, be elected by Congress, one by each House, to serve during the present session, who shall interchange weekly.

ANNUAL TREASURY REPORT.

The SPEAKER laid before the House the annual report of the Secretary of the Treasury on the state of the finances; which, on motion of Mr. POLK, was laid on the table, and 10,000 copies ordered to be printed.

Sundry other communications were received from the Secretary of the Treasury; which were laid on the table, and ordered to be printed.

GENERAL LAFAYETTE.

A message, in writing, was received from the President of the United States, by Mr. Donelson, his private secretary; which was read, and referred to the Com-

mittee on Foreign Affairs. [A copy of the message will be found in the proceedings of the Senate of to-day's date.]

After some other proceedings,

On motion of Mr. MANN, of New York,

Ordered, That when this House shall adjourn this day, it will adjourn to meet again on Monday next, the 8th instant.

And then the House adjourned.

MONDAY, DECEMBER 8.

STANDING COMMITTEES.

The following committees were announced as the standing committees of the House:

Of Elections—Messrs. Claiborne, Griffin, Hawkins, Vanderpoel, Hannegan, Hard, Burns, Bouldin, Kilgore.

Of Ways and Means—Messrs. Polk, Wilde, Cambreleng, McKim, Binney, Loyall, McKinley, Hubbard, Corwin.

Of Claims—Messrs. Whittlesey of Ohio, Barbour, McIntire, Gholson, Forester, Stoddert, Banks, Fulton, Miner.

Of Commerce—Messrs. Sutherland, Harper of New Hampshire, Pinckney, Heath, Pearce of Rhode Island, Gillet, Phillips, Johnson of Louisiana, Morgan.

On the Public Lands—Messrs. Clay, Boon, Clayton, Slade, Ashley, Inge, Williams, Lincoln, Casey.

On the Post Office and Post Roads—Messrs. Connor, Kavanagh, Thomas of Louisiana, Briggs, Murphy, Lane, Laporte, Hall of Vermont, Schley.

For the District of Columbia—Messrs. Chinn, W. B. Shepard, McKennan, Allen of Virginia, Hiester, Fillmore, King, Vanderpoel, Steele.

On the Judiciary—Messrs. Foster, Gordon, Beardsley, Thomas of Maryland, Hardin, Parks, Pierce of New Hampshire, Robinson, Hamer.

On Revolutionary Claims—Messrs. Muhlenberg, Crane, Bates, Standefer, Marshall, Young, Baylies, Turrill, Kinnard.

On Public Expenditures—Messrs. Davenport, Lyon, Page, Clark of Pennsylvania, Tweedy, McLene, Jackson of Massachusetts, Hazeltine, Ferris.

On Private Land Claims—Messrs. Johnson of Tennessee, Mardis, Carr, Galbraith, Mann of New York, Bull, Chambers, Davis of Kentucky, May.

On Manufactures—Messrs. Adams of Massachusetts, Denny, Dickerson of New Jersey, Martindale, McComas, Osgood, Clowney, Cramer, Jackson of Connecticut.

On Agriculture—Messrs. Bockee, Taylor of Virginia, Hathaway, Barnitz, Bean, Dunlap, Clowney, Turner, Beaty.

On Indian Affairs—Messrs. Gilmer, McCarty, Everett of Vermont, Graham, Allen of Ohio, Dickinson of Tennessee, Howell, Love of Kentucky, Grennell.

On Military Affairs—Messrs. Johnson of Kentucky, Vance, Speight, Ward, Thomson, Coffee, Bunch, McKay, Anthony.

On Naval Affairs—Messrs. White of New York, Milligan, Watmough, Lansing, Reed, Grayson, Parker, Smith, Wise.

On Foreign Affairs—Messrs. Wayne, Everett of Massachusetts, Hall of North Carolina, Coulter, Jarvis, Pierson, Patton, Letcher, Peyton.

On Territories—Messrs. Allan of Kentucky, Potts, Johnson of New York, Wilson, Jones of Ohio, Ewing, Gamble, Cage, Trumbull.

On Revolutionary Pensions—Messrs. Wardwell, Barringer, Tompkins, Moore of Virginia, Lea of Tennessee, W. K. Fuller, Fowler, Bell, Lay.

On Invalid Pensions—Messrs. Miller, Beale, Adams of New York, Schenck, Chilton, Chaney, Mitchell of Ohio, Brown of New York, Janes.

On Roads and Canals—Messrs. Mercer, Blair, Vinton, Stewart, Rencher, Johnson of Maryland, Lucas, Pope, Reynolds.

On Revisal and Unfinished Business—Messrs. Dickson, Harrison, McVean, Shinn, Taylor of New York.

Of Accounts—Messrs. Mann of Pennsylvania, Lee of New Jersey, Mitchell of New York, Crockett, Osgood.

The following standing committees of the House, appointed at the last session, remain through the Congress:

On Expenditures in the Department of State—Messrs. A. H. Shepperd, Day, Beaumont, Bodle, Patterson.

On Expenditures in the Department of the Treasury—Messrs. Allen of Vermont, P. C. Fuller, Harper of Pennsylvania, Spangler, Clark of New York.

On Expenditures in the Department of War—Messrs. Whittlesey of New York, Deberry, Chambers, Webster, Halsey.

On Expenditures in the Department of the Navy—Messrs. Hall of Maine, Huntington of New York, Ramsay, Sloane, Van Houten.

On Expenditures in the Department of the Post Office—Messrs: Hawes, Fulton, Burns, Wagener, Lay.

On Expenditures on Public Buildings—Messrs. Whallon, Darlington, Brown, Henderson, Hard.

RICHARD J. MANNING, elected a Representative in Congress from the State of South Carolina, to fill the vacancy occasioned by the death of the Hon. James Blair, appeared, was qualified, and took his seat.

FRANCIS W. PICKENS, elected a Representative from the State of South Carolina, to supply the vacancy occasioned by the resignation of the Hon. George McDuffie, appeared, was qualified, and took his seat.

After the reception and reference of petitions,

On motion of Mr. EDWARD EVERETT,

Resolved, That a committee of three members be appointed on the part of this House, who, together with three persons to be appointed on the part of the Senate, shall direct the expenditure of the money appropriated for the library of Congress.

EXPENDITURES AT NAVY POINT, N. Y.

The following resolution, submitted on Thursday by Mr. WARDWELL, was taken up:

Resolved, That the Secretary of the Navy be directed to report to this House the amount expended in erecting the ship-house at Navy point, in the county of Jefferson, and State of New York, and the expense of keeping the same in repair. Also, the like information in relation to the vessel built and lately sold at Storr's harbor, in said county, and the amount of compensation allowed to the officer or officers, person or persons, who have from time to time had charge of the same. Also, the reasons, if any exist, for the further preservation of the vessel and ship-house at Navy point. Also, that he report the amount heretofore paid for the use and occupation of the land now belonging to the heirs of Henry Eckford, deceased, at Navy point and Storr's harbor, on which the vessels New Orleans and Chippewa were built, and also the terms of any contract which may have been made with the Government, or its authorized agent, for the use and occupation of such land.

Mr. WHITE moved the following amendment, which was accepted by Mr. WARDWELL; and, thus amended, the resolution was agreed to, viz:

"And any other information in possession of the Department relative thereto."

After disposing of sundry resolutions, the bill to regulate the pay of the navy of the United States was taken up; and, on motion of Mr. WATMOUGH, made the special order of the day for this day week.

WEST POINT ACADEMY.

Mr. HAWES, of Kentucky, submitted the following resolution:

Resolved, That a select committee, consisting of one member from each State, be appointed, with power to inquire into the expediency of amending the laws relating to the Military Academy at West Point, in the State of New York, or whether it would not comport with the public interests to abolish said institution.

Mr. H. asked the yeas and nays on the adoption of the resolution, and they were ordered.

Mr. CLAYTON rose and remarked that, from the sound of the negatives on the question just taken, it appeared probable that this inquiry was about to be refused. He wished, therefore, to say that there was an impression abroad that the institution of West Point was nothing but a nursery for the children of members of Congress, and of other great men. If that was a slander upon the institution, it might be easily refuted. General and strong prejudices existed against the institution. It was believed to be conducted, not for the general benefit, but for the interests of a favored few; for the sons of military officers, members of Congress, and other Government officers. This, he said, was a suspicion. He did not assert it as a fact. But it was necessary that the proposed inquiry should be made.

Mr. HAWES said the resolution which he had offered proposed a committee of one member from each State, to inquire into the propriety of regulating or abolishing the West Point Academy. As had been remarked by his friend from Georgia, [Mr. CLAYTON,] there were matters in circulation with regard to this institution, which demanded a full inquiry. He would not say that his own mind was made up on the subject, but the minds of his constituents were. Gentlemen who were opposed to this inquiry could not, he thought, condemn the course of the Bank of the United States in refusing to show its books to the committee of the House of Representatives: no one, he hoped, who joined in abusing the bank for resisting an inquiry, would attempt to screen the Military Academy.

Mr. PARKER would be very willing, he said, to vote for the resolution, if the mover would strike out so much of it as refers to the abolition of the Academy. He moved to strike out that clause, and also so much of the resolution as proposed a committee of twenty-four. He would prefer a select committee of the usual number.

Mr. SPEIGHT was opposed to the suggestion of the gentleman from New Jersey. If, upon examination, the reports concerning the management of the institution should be found to be true, it would be necessary for the committee to report a bill to abolish it. In regard to the number of the committee he also disagreed with the gentleman. The institution was of a general character and concerned the whole country; and it was, therefore, proper that the committee of inquiry should embrace a member from each State. After all the censure which had been cast upon the Bank of the United States for withholding information required from it, he hoped there would be no disposition to screen this institution from inquiry. Last year, a resolution for this investigation was sent to the standing Committee on Military Affairs, consisting of friends to the institution, and no examination was made. There was much complaint among the people of the neglect with which this subject was treated. He hoped that all objections to the resolution would be withdrawn.

Mr. R. M. JOHNSON, after calling for the reading of the resolution, remarked that it was not important whether it embraced an inquiry as to the expediency of abolishing the institution or not. Whatever might be the result, it was proper that the broadest inquiry should be made. He had risen for the purpose of suggesting that, at the last session, the Committee on Military Affairs did investigate this subject, and did report upon it in the fullest and most elaborate manner. That report was laid upon the tables of members; but, such was the press of other business, he did not believe that ten members ever read it; nor that there were ten members who even knew that such a report was made. Though always reluctant to oppose any proposition coming from his worthy colleague, yet he would suggest that a committee of twenty-four would not be as competent to present this matter to the House as a committee of seven. He should vote against the committee of twenty-four, because it was giving too much importance to an ordinary matter. Never, since he first took his seat in Congress--and it was so long ago that his memory could scarcely run back to the time--had he known a committee of twenty-four to be raised on more than one or two occasions. If the object was barely an inquiry, why should it not be referred to a committee of seven or nine members. He hoped his colleague would so modify his resolution that he could vote for it. He would venture to say that, notwithstanding all the rumors in regard to the institution, (and he paid no more regard to rumor than to the idle wind,) nothing prejudicial to the conduct of the institution would be discovered upon the fullest investigation, and that the more its concerns were examined into, the less fault would be found with it.

Mr. WILLIAMS, of North Carolina, said that he was entirely friendly to the proposed investigation, and he hoped it would take place. As to the institution in question, he had always regarded it as one essential branch of our military system. To him it seemed that a gentleman might as well get up and move an inquiry into the propriety of abolishing the army of the United States. The one was, in his judgment, as necessary to the defence of the country as the other. Yet he was in favor of the inquiry, because, if rumors were afloat through the country, to the disadvantage of the institution, they ought, by inquiry, to be confirmed or refuted. He thought, however, that the inquiry ought properly to go to the Committee on Military Affairs. All matters of a military kind were referred to that committee, as of course: and why? because it was taken for granted that the members of that committee were better acquainted with subjects of this description than other gentlemen of the House: and if this was true generally, why not in reference to this particular branch of our military affairs? There might be a propriety in inquiring whether the rule at present existing in relation to the *admission* of candidates into the Academy ought not to be altered. As he understood the matter, the chief objection abroad in the country had reference to this rule. If another rule of admission would tend more equally to diffuse the benefits of the institution, it ought certainly to be adopted. Mr. W. concluded by moving to amend the resolution, by striking out a select committee, and inserting the Committee on Military Affairs. He said he should vote for the inquiry, let it take which form it might: but he thought something was due to the general propriety of the usage of the House, in referring such subjects to the Committee on Military Affairs.

Mr. BROWN hoped the amendment would prevail; and he trusted that no gentleman, friendly to the institution, would oppose it. If injurious reports were prevailing, this would be the readiest mode of quieting them. But he was opposed to appointing a committee of twenty-four members. The most proper committee was that on Military Affairs. As had been suggested, this Academy constituted one branch of our military establishment; and why disconnect it from the rest by sending it to a

different committee? All the branches of the system were closely connected; and why thus disrupt them? Why not start a separate inquiry into any other particular branch of it? He was willing, however, that the inquiry should be made, either by a standing or a select committee, provided it was not so unwieldy as had been now proposed. He had supposed that the subject had been already investigated; and, if gentlemen would look at the able report of the Military Committee of the last session, they would be convinced that such was the fact. Yet, if they insisted on a select committee, he should not oppose it. Let the nation be informed of the truth. For himself, he had no doubt that the only issue of the investigation would be to establish more fully than ever the utility and importance of the school, and the vanity of expecting to maintain our army on its present plan without such an institution.

Mr. HARDIN, of Kentucky, was opposed to the resolution. The Academy was necessarily connected with the well-being of our army. He should as soon expect to have a good orchard with no nursery of young trees as to keep up our army without a preparatory school of this character. For his part, he had heard of no well-defined or distinct specific charge against the institution; and mere floating rumor was to be disregarded. As to the admission of cadets, that was a matter usually confided, in practice, to the members of Congress from each district. Whatever candidate they agreed to recommend was usually appointed by the Secretary of War. If, then, there was any fault in this matter, it rested with members of Congress, not with the conductors of the Military Academy. Having heard of no specific charge, he should conclude by moving to lay the resolution on the table.

On this question Mr. HUBBARD, of New Hampshire, demanded the yeas and nays; which, being taken, resulted as follows: Yeas 20, nays 109. So the motion to lay on the table was negatived.

Mr. HAWES said that he was very sorry that a resolution of mere inquiry should have excited so much debate. He did not now know who constituted the Committee on Military Affairs; he knew but one gentleman certainly to be a member of it, (looking towards Mr. R. M. JOHNSON,) and that gentleman he would as soon trust with the present investigation, or any other which related to abuses of Government, as any other individual upon the face of the earth. But the gentleman from New York [Mr. BROWN] had stated that the Military Committee had made a full report on the subject, declaring that the affairs of the Academy were all going on extremely well. Let him, then, ask why it was that that gentleman (within whose district the institution was situated) was so extremely anxious that the present inquiry should be referred to the Committee on Military Affairs? Could there be a more equitable arrangement than to intrust a subject in which all parts of the Union were so much interested, with a committee constituted of members from each State? He could conceive of none. The gentleman from Kentucky, however, [Mr. HARDIN,] was strongly opposed to abolishing the school. Did this resolution propose to abolish the school? It proposed an inquiry, and nothing more.

An honorable gentleman from North Carolina [Mr. WILLIAMS] was of opinion that this Academy was essentially connected with the military defence of the country. Mr. H's opinion was diametrically the reverse. This school was not necessarily connected with it, at least as at present conducted; it had little or nothing to do with it. As to the gentleman from Kentucky, [Mr. HARDIN,] he would not act upon floating rumor: he must have a specific charge or he would do nothing. Well, the gentleman should have a specific charge. Mr. H. would state this specific charge against this institution—that a relative of that gentleman, a gentleman of wealth and standing in the country, had been admitted to receive its advantages and benefits, while hundreds and thousands of the children of the poor were excluded from any participation in them. The gentleman had now a specific charge to go upon.

Mr. MANN, of New York, said that it seemed to be generally conceded that an inquiry ought to be made. He was in favor of such an inquiry, but he was for going further, and extending the inquiry to one or two other abuses in the management of our military concerns. If it was in order, he should move that the committee of investigation extend their labors a little further; for it was always desirable that, in matters of this kind, as large a field should be embraced as possible. He had no doubt that mal-administration existed at West Point; as one evidence of which, he learned from the official reports on that subject, that it cost this Government between five and six thousand dollars to educate an officer for the army of the United States. Surely, such an enormous expenditure as this for each cadet ought to be looked into. Although the school was located within his own State, Mr. M. could never sanction a scale of expense like this.

Mr. M. then moved an amendment to the last amendment, proposing that the committee be also instructed to inquire into the expediency of abolishing the office of major general commanding in chief; and apportioning more equitably the pay, rations, and emoluments, of the general officers of the army.

The CHAIR reminded Mr. MANN that this could not be received until the amendment to the amendment now under consideration was disposed of.

Mr. MANN said that he would, then, offer his amendment as soon as it should be in order. He understood that the commander-in-chief now received, in pay, rations, and one way or another, in all about ten thousand dollars a year. Although he was friendly to the individual who now filled the office, he knew of no reason why the emolument should be so disproportionably large. It was double the pay of the heads of the Departments.

The CHAIR here again interposed to remind Mr. MANN that, as the amendment was not before the House, remarks upon it were out of order.

Mr. MANN then observed that he was generally in favor of sending important subjects to the standing committees of the House, but as the mover of the inquiry complained that the Military Committee had not given the subject their attention, he was willing that it should go to a select committee, though not so large a one as the gentleman was in favor of.

Mr. WARD observed that the Committee on Military Affairs had not omitted or refused to give the subject their fullest attention. On the contrary, it had excited the gravest discussion; which discussion had issued in the presentation of one of the ablest reports the committee had ever made. As, notwithstanding this, the inquiry was still renewed, he, as one of the members of the Military Committee, should greatly prefer that the subject should be sent to some other committee. Let the gentleman have his select committee. But he trusted the honorable gentleman, before he sent an investigation of this kind to any committee of that House, would designate the specific charges which they were to examine into. Let him specify the abuses, if any existed. And he further hoped that, if the matter went to a select committee, it would be one of the usual dimensions, consisting of seven or nine members.

The question being now put on the amendment proposed by Mr. WILLIAMS, to substitute the Committee on Military Affairs for a select committee of twenty-four, it was decided in the negative: Ayes 76, noes 98.

The question next recurring on the amendment proposed by Mr. PARKER, to strike out that part of the resolution which required the committee to consist of one member from each State, and also that clause which required the committee to inquire into the expediency of abolishing the school entirely—

Mr. HUBBARD demanded that the question be divided. It was divided accordingly; and the questions being put separately, were both negatived.

Mr. MANN, of New York, now moved the amendment he before proposed, for an inquiry into the propriety of abolishing the office of commander-in-chief, and of a more equitable apportionment of the pay and emoluments of the general officers.

Mr. SMITH, of Maine, was in favor both of the resolution and the amendment, but feared that uniting them together might hazard the success of both. He pledged himself to vote for each, if separated; but declared he must vote against the present motion, if pressed as an amendment to the resolution.

Mr. WISE, of Virginia, said he learned from the constitution that the commander-in-chief of the armies and navy of the United States was the President of the United States. Did the gentleman from New York mean that the committee should be ordered to inquire into the propriety of abolishing the office of President?

Mr. MANN replied. He certainly had no intention to propose an inquiry into the propriety of abolishing the office of President of the United States, although he was not unaware that several gentlemen had on some occasions deemed such a measure highly expedient. He used the term as in common parlance it was applied; and as he also believed that such was the official style of the officer to whom his amendment referred, who was one of the major generals in the army. If the gentleman from Virginia was not satisfied with the term used, and would say what it ought to be, Mr. M. would cheerfully adopt his suggestion.

Mr. WISE said he had been aware that it would not very well suit the gentleman from New York, just now, that the office of President should be abolished. The officer to whom the amendment referred was, he believed, styled "general-in-chief."

Mr. MANN so modified his amendment; when, the question being taken, the amendment was negatived without a count. The resolution was then adopted, by yeas and nays, as follows:

YEAS—Messrs. John Quincy Adams, John Adams, Heman Allen, William Allen, Archer, Banks, Barber, Barringer, Bates, Baylies, Beale, Bean, Beardsley, Beaty, Beaumont, Bell, Bouldin, Briggs, Brown, Bull, Bunch, Burd, Burns, Cambreleng, Campbell, Carmichael, Carr, Casey, Chambers, Chaney, Chilton, Claiborne, William Clark, Clay, Clayton, Clowney, Coffee, Connor, Corwin, Crane, Crockett, Darlington, Davis, Davenport, Day, Deberry, Dickerson, Dunlap, Evans, Horace Everett, Ewing, Fillmore, Forester, Foster, Fowler, Philo C. Fuller, William K. Fuller, Galbraith, Gamble, Garland, Gholson, Gillet, Gilmer, Gordon, Graham, Grayson, Grennell, Joseph Hall, Hiland Hall, Thomas H. Hall, Hamer, Hannegan, Hard, Joseph M. Harper, James Harper, Harrison, Hawkins, Hawes, Heath, Henderson, Hiester, Hubbard, Huntington, Inge, William Jackson, Ebenezer Jackson, Janes, Noadiah Johnson, Cave Johnson, Henry Johnson, Benjamin Jones, Kavanagh, Kilgore, King, Kinnard, Lane, Lansing, Laporte, Lay, Luke Lea, Thomas Lee, Lewis, Loyall, Lyon, Abijah Mann, Joel K. Mann, Martindale, Marshall, Mardis, John Y. Mason, Moses Mason, May, McCarty, McComas, McIntire, McKay, McKim, McKinley, McLene, McVean, Milligan, Miner, Henry Mitchell, Robert Mitchell, Moore, Morgan, Murphy, Osgood, Page, Parks, Patton, Patterson, Peyton, Pickens, Franklin Pierce, Pierson, Pinckney, Polk, Pope, Potts, Ramsay, Reed, Rencher, Reynolds, Robertson, Schenck, Schley, Augustine H. Shepperd, Shinn, Slade, Sloane, Smith, Spangler, Speight, Standefer, Steele, Sutherland, William Taylor, William P. Taylor, Philemon Thomas, Thomson, Tompkins, Trumbull, Turner, Turrill, Tweedy, Vanderpoel, Van Houten, Wagener, Wayne, White, Frederick Whittlesey, Williams, Wise, Young—182.

NAYS—Messrs. Chilton Allan, Anthony, Ashley, Barnitz, Bockee, Samuel Clark, Cramer, Dickson, Edward Everett, Ferris, Halsey, Hardin, Hathaway, Hazeltine, Howell, Jarvis, Richard M. Johnson, Love, Manning Parker, Dutee J. Pearce, Phillips, William B. Shepard, Francis Thomas, Vance, Vinton, Ward, Wardwell, Whallon, Wilde—27.

REMODELLING THE TREASURY DEPARTMENT.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, enclosing a report made in pursuance of a resolution of the House at its last session, in relation to the reorganization of the Treasury Department.

Mr. WAYNE moved to refer the report to a select committee of nine; which was agreed to; and, on motion of the same gentleman, 5,000 extra copies were ordered to be printed.

The following gentlemen were announced as the select committee appointed to reorganize the Treasury Department: Mr. Wayne, Mr. Mason of Virginia, Mr. McKennan, Mr. Cambreleng, Mr. Rencher, Mr. Evans, Mr. Pope, Mr. Jarvis, and Mr. McKay.

Adjourned.

TUESDAY, DECEMBER 9.

The following gentlemen were announced as the Library Committee of this House: Mr. Edward Everett, Mr. Wayne, and Mr. Loyall.

The following gentlemen were announced as the Committee on the Public Grounds and Buildings: Mr. Jarvis, Mr. Ward, Mr. Watmough, Mr. Lincoln, and Mr. William B. Shepard.

The following gentlemen were announced as the Committee on Mr. HAWES's resolution concerning the Military Academy, viz: Mr. Hawes, of Kentucky; Mr. Smith, of Maine; Mr. Pierce, of New Hampshire; Mr. Briggs, of Massachusetts; Mr. Pearce, of Rhode Island; Mr. Young, of Connecticut; Mr. Hall, of Vermont; Mr. Mann, of New York; Mr. Dickerson, of New Jersey; Mr. Laporte, of Pennsylvania; Mr. Milligan, of Delaware; Mr. Carmichael, of Maryland; Mr. Gholson, of Virginia; Mr. A. H. Shepperd, of North Carolina; Mr. Campbell, of South Carolina; Mr. Gamble, of Georgia; Mr. Forester, of Tennessee; Mr. Allen, of Ohio; Mr. Garland, of Louisiana; Mr. Hannegan, of Indiana; Mr. Cage, of Mississippi; Mr. Casey, of Illinois; Mr. Lewis, of Alabama; Mr. Ashley, of Missouri.

SURVIVING OFFICERS, &c., OF THE REVOLUTION.

When the usual morning business had been gone through with,

Mr. CHILTON, of Kentucky, said he rose to submit a motion, which he sincerely hoped would be indulged by the House. At the last session of Congress, he said he had presented, for the consideration of this body, the claims of a portion of that noble band of patriots who were engaged in the revolutionary struggles of the country, and for whom no provision had been made by any of the pension laws of the United States. He alluded to those who, between the close of the British war, in 1782, and the treaty of Greenville, in 1795, were en-

gaged in defending the western frontier and the western domain of the States from the invasions and butchery of a savage foe. The House will recollect, said Mr. C., that, after a long and labored debate, the resolution of inquiry in regard to the meritorious character of those claims was adopted by a large majority of the members. A select committee was raised, and a report, accompanied by a bill, submitted for the consideration of this body. On the presentation of that report and bill, they were referred to a Committee of the Whole House, on whose calendar, owing to the press of business during the session, they were, at its close, left unfinished and unacted on.

The object of my present motion, said Mr. C., is to discharge the Committee of the Whole House from the further consideration of that subject, that it may be referred to a Committee of the Whole on the state of the Union. I adopt this course with no expectation that it can render the success of the measure more certain, as both the rules of proceeding and the power of the House over the subject will, in either event, be the same. But I resort to it for the purpose alone of securing to the proposition a final determination during the present session of Congress; so that, if those aged veterans are to receive any aid from a country whose liberty they have achieved, or any public testimonial of the gratitude of those who are enjoying the rich inheritance which they purchased with toil and blood; then, that such aid and such testimonials may be speedily offered them, and that their last afflictions may be alleviated, and their last moments cheered by the recollection—nay, the evidences—that "Republics are not always ungrateful." I therefore move the discharge of the one, and the reference of the subject to the other committee.

Mr. WARDWELL moved to amend the motion by embracing it in the bill, left last session in the Committee of the Whole House, "to extend the provisions of the act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution."

Mr. CHILTON accepted the amendment, and the motion, as modified, was agreed to: Yeas 81, nays 74.

On motion of Mr. POLK, the several communications received from the Secretary of the Treasury were referred to the Committee of Ways and Means.

On motion of Mr. CROCKETT, the bill to amend an act entitled "An act authorizing the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same," passed 18th April, 1806, (reported at the last session,) was committed to the Committee of the Whole House, and made the special order of the day for Wednesday week.

PRESENTS FROM FOREIGN POWERS.

Mr. MASON, of Virginia, rose to remind the House that, at the last session, a message was received from the President of the United States, submitting to the disposition of Congress certain presents from the Emperor of Morocco, (a lion and two horses.) The Committee on Foreign Affairs, to which the message was referred, recommended that the presents should be sold, and the proceeds placed in the treasury of the United States. But the Executive thought he was not sufficiently justified without an act of Congress, for taking this course. It was desirable that the subject should be disposed of, and the contingent fund relieved from the expense now charged upon it. He moved a recommitment of the message to the Committee on Foreign Relations.

Mr. E. EVERETT wished, he said, that the gentleman would propose a different disposition of the subject. The presents were now in the country, and the disposition of them was no longer connected with the subject of foreign relations. If doubts had arisen in the mind of the Executive as to the legality of the procedure recommended by the committee, he hoped they would be removed. But the Committee on Foreign Affairs was not the proper tribunal for resolving legal doubts. He suggested the propriety of referring the subject to the Committee on the Judiciary.

Mr. MASON was glad, he said, to find that the gentleman was in favor of the object of his motion. Instructions had been given to our agents abroad which would prevent them from accepting, for themselves or for the Government, any more presents from foreign Powers, and it was only necessary for us to dispose of those which we had already received. He considered it more respectful to the Committee on Foreign Affairs to propose a recommitment of the subject to them, than to move its reference to another committee. It was evident, from the admirable report made by that committee at the last session, that they considered their recommendation as sufficient for the object, without an express act. But it seemed that the President was reluctant to act without further authority. As the presents were still in the possession of the State Department, the subject properly belonged to the Committee on Foreign Affairs.

Mr. CLAYTON moved to amend the motion, so as to instruct the committee also to consider the propriety of disposing, in some manner, of the presents already in the State Department.

The amendment was accepted by the mover, and the motion, as modified, agreed to in the following form:

Resolved, That the message of the President of the United States on the subject of a present received by the consul of the United States at Tangier from the Emperor of Morocco, made to this House at the last session of Congress, be recommitted to the Committee on Foreign Affairs, with instructions to report a bill directing the sale of the lion and horses presented; and such application of the proceeds of such sale as shall be deemed most appropriate. Also, to inquire into the expediency of making disposition of such other presents as have been made to officers of the Government, and deposited in the Secretary of State's office, as being presented contrary to the constitution.

MARBLE COLUMN AT YORK, IN VIRGINIA.

On motion of Mr. WISE, the bill reported at the last session, "to carry into effect a resolution of Congress passed 29th day of October, 1781, to erect a marble column at York, in Virginia," was made the special order of the day for to-morrow week.

GENERAL LAFAYETTE.

Mr. HUBBARD called the attention of the House to the proceedings at the last session, upon the resolution then reported from a joint committee of the two Houses, for the adoption of suitable measures for paying proper respect to the memory of General Lafayette, and submitted the following resolution, to carry into effect the order adopted by the House at the late session:

Resolved, That a committee be appointed on the part of this House, to join such committee as may be appointed on the part of the Senate, to consider and report the arrangements necessary to be adopted, in order to carry into effect the last resolution reported on the 24th June, 1834, by the joint committee appointed at the last session of Congress, on the occasion of the death of General Lafayette.

The resolution was agreed to, and the committee ordered to consist of five members.

PRESIDENT'S MESSAGE.

On motion of Mr. CONNOR, the House resolved itself into a Committee of the Whole on the state of the

Union, (Mr. SPEIGHT in the chair,) on the message of the President of the United States.

On motion of Mr. CONNOR, the committee proceeded to the consideration of the message of the President, and the following resolutions, moved by Mr. C., were considered and agreed to.

1. *Resolved*, That so much of the President's message as relates to the political relations of the United States with other nations be referred to the Committee on Foreign Affairs.

2. *Resolved*, That so much of the said message as relates to the commerce of the United States with foreign nations be referred to the Committee on Commerce.

3. *Resolved*, That so much of said message as relates to the finances, and to the Bank of the United States, be referred to the Committee of Ways and Means.

4. *Resolved*, That so much of the said message as relates to the report of the Secretary of War, and the public interests intrusted to the War Department, be referred to the Committee on Military Affairs.

5. *Resolved*, That so much of said message as relates to the Indian tribes be referred to the Committee on Indian Affairs.

6. *Resolved*, That so much of said message as relates to the existence of extensive frauds under the various laws granting pensions and gratuities for revolutionary services, and the re-examination of those laws, be referred to the Committee on Revolutionary Pensions.

7. *Resolved*, That so much of said message as relates to the report of the Secretary of the Navy, and the naval service, be referred to the Committee on Naval Affairs.

8. *Resolved*, That so much of said message as relates to the report of the Postmaster General be referred to the Committee on the Post Office and Post Roads.

9. *Resolved*, That so much of said message as relates to the extension of the judiciary system of the United States be referred to the Committee on the Judiciary.

10. *Resolved*, That so much of said message as relates to the amendment of the constitution, in relation to the election of President and Vice President of the United States, be referred to a select committee.

11. *Resolved*, That so much of said message as relates to the destruction of the building occupied by the Treasury Department, and to the erection of a new building for the use of the Treasury Department, be referred to the select committee on the Public Buildings.

12. *Resolved*, That said select committee have leave to report by bill or otherwise.

RELATIONS WITH FRANCE.

While the above resolutions were under consideration,

Mr. CLAYTON offered the following amendment as a substitute for the first resolution:

"That so much of the President's message as relates to the treaty with France concluded at Paris on the 4th of July, 1831, be referred to the Committee on Foreign Affairs, with instructions to report that it is expedient to await the further action of the French Chambers on the question submitted to them, of granting the appropriations necessary to carry the treaty into effect, inasmuch as the delay of consummating its terms seems to have proceeded more from the delicate and important character of the claims resting on voluminous documentary evidence, their long standing, and the peculiar complexity of the principles involved in their adjustment, than from any design, on their part, to impair the friendly relations which have so long and happily subsisted between the French and American Governments, or any desire to evade the performance of ample justice when the whole matter shall have been fully and fairly considered."

Mr. CLAYTON, in supporting the amendment he had offered, proceeded to say that he considered the question involved in the resolution as perhaps one of the most important which would come before the House during the present session, and he wished it to be fully understood that, in the few remarks he should offer, his purpose was to avoid every thing in the remotest degree connected with party feeling. He trusted he should be the last man to bring forward any thing to disturb the harmony of the House. The President, in submitting that portion of his message which related to this subject, had, he doubted not, done that which he honestly believed to be expedient and proper. He had nothing to censure in the proceeding, nor was it his design to cast any blame upon any one. The question, however, in all its weight and solemn responsibility, was by the message submitted to the consideration and decision of the legislative branch of the Government. The body whom he addressed were responsible for all the consequences attendant upon their decision; and, when the extent of those consequences was taken into view, it was a consideration which could not but strike the mind of every individual in a most forcible manner. The people of the United States were now looking intently to the legislative body for what was to ensue.

It could not be disguised that the recommendation in the message amounted, practically, to nothing more or less than a declaration of war against France. That was the recommendation. And he trusted that gentlemen would not suffer themselves to be deceived into any other view of it. Let every gentleman ask himself whether, should that be done which the President advises, war must not be the natural and inevitable consequence? He was ready to admit that the time might come, nay, that it might, perhaps, be not distant, when war would be necessary; but he concluded that that time was not yet come. In the message the House was presented with an alternative. "If," says the President, in his message, "it shall be the pleasure of Congress to await the further action of the French Chambers, no further consideration of the subject will, at this session, probably be required at your hands." But if this course should not appear to Congress proper to be adopted, then the President submits the only other which, in his opinion, remained. "I recommend," says he, "that a law be passed, authorizing reprisals upon French property, in case provision shall not be made for the payment of the debt at the approaching session of the French Chambers." Mr. C. said he would here appeal to the candor of the House to say whether they believed that resorting to a measure of this character would not immediately place the United States in hostile relations with one of the proudest, most high spirited, most warlike, and most wealthy, powerful, and formidable nations of the world? Let no gentleman deceive himself. The moment such a measure should be sanctioned by the legislative authority, all prospect of a friendly termination of our dispute with France was at an end.

It might, perhaps, be said that, before the House came to a decision of any kind, they ought to allow themselves ample time; as possibly the whole matter might have been decided before the message should reach France. But he would ask whether, should that be the case, gentlemen would wish to place that nation in such a condition as they would then occupy? Should the House, on the contrary, adopt the instructions he had had the honor to propose, would it not go far to show to the French people, and their Government, that there existed in the American nation no unkind, no hostile feeling toward our ancient friends and allies. All that sense of mutual mortification would be spared, which must be the inevitable result of having needlessly threatened

those who were, without a threat, disposed to do us right. But supposing that the question should not have been settled, and the message containing the language he had read should arrive on the other side of the water, what would be the effect upon the French Chambers?

Had gentlemen read the debates in that body on the subject of our treaty? Had they seen what a high-minded, proud, lofty spirit pervaded and animated the speeches of the French orators, so exactly characteristic of that ancient and chivalrous people? Did any man believe that, if such language was held when no threat had been uttered, those men would be disposed to yield our claims after the threat had been heard? If the Chambers hesitated now, from their view of the character of our demand, did any man believe that, after this message of the President of the United States had reached them, they would be more disposed to yield us our rights? Mr. C. said he might show, from another portion of the message itself, what might be expected to be the temper and feelings of the French people in such circumstances. The President, speaking of the conduct of the bank, observes:

"To the needless distresses brought on the country during the last session of Congress, has since been added the open seizure of the dividends on the public stock, to the amount of one hundred and seventy thousand and forty-one dollars, under pretence of paying damages, cost, and interest, upon the protested French bill. This sum constituted a portion of the estimated revenues for the year 1834, upon which the appropriations made by Congress were based. It would as soon have been expected that our collectors would seize on the customs, or the receivers of our land offices on the moneys arising from the sale of public lands, under pretences of claims against the United States, as that the bank would have retained the dividends. Indeed, if the principle be established that any one who chooses may set up a claim against the United States, may, without authority of law, seize on the public property or money wherever he can find it, to pay the claim, there will remain no assurance that our revenue will reach the treasury, or that it will be applied, after the appropriation, to the purposes designated in the law. The paymasters of our army and the pursers of our navy may, under like pretences, apply to their own use moneys appropriated to set in motion the public force, and in time of war leave the country without defence. This measure resorted to by the bank is disorganizing and revolutionary, and, if generally resorted to by private citizens in like cases, would fill the land with anarchy and violence."

Here was a parallel case. If such an act as that of the bank, in the case referred to, was felt by the President to be "revolutionary," and full of "violence," what effect would the language he held on the subject of reprisals be expected to exert in France? a proposition, while they were still deliberating on our claims, to take redress into our own hands, and seize at once upon their ships upon the high seas! As men felt, so nations would feel; what was true of the one, would, to a great extent, be true of the other.

Gentlemen should not consider this question like that between France and Portugal. Portugal was a small nation, in a state of political distraction, and utterly unable to resist the demand made upon her, or to avenge aggressions on her property. France was a very different thing. She was not to be compelled, as Spain had been, to endure, without resenting it, the language held to her, when the gentleman who now presided over the Department of State was our minister near that Power. Very different consequences must ensue, should language of a similar tenor be addressed to her. Reprisals were, in effect, acts of hostility; so soon as they should be authorized on our part by Congress, France would instantly retaliate, and order reprisals by her citizens; and what must be the consequence? Who did not see that the result must be war? Now, he did not believe that, as yet, we had justifiable cause of war with the French nation. He argued this question, and intended to argue it, as if the recommendation of the President was a recommendation of war. He trusted gentlemen would not so far deceive themselves as to view it in any other light. Indeed, it was very plain that the Secretary of the Treasury, in his report, seemed to look toward such an event. The President did the same. The Secretary says:

"It is not now possible to foresee the contingencies that may check either the present large importations of merchandise or large sales of land, and consequently reduce the revenue derived from them; or that may require an increase in our army or navy expenditures, arising from those unfortunate collisions to which all nations are liable, that feel disposed to sustain the faith of treaties, vindicate their public rights, and protect, efficiently, their commerce and citizens. No further reduction of the tariff, until that already provided for, at the close of the ensuing year, would therefore seem to be prudent."

In fact, the President and his minister had done as it became a judicious Government to do; they had anticipated a possible state of war, and had provided against it. That such must be the natural consequence of the measure the President had recommended, he believed no candid man would for a moment deny.

Mr. C. said he had no hesitation in declaring his belief that our claims on the French Government were perfectly fair and just; he believed that we had not asked a cent more than was justly due to us; that we ought to have the money; and that, should our demand be definitively refused, the refusal would present just cause of war. But it had not been definitively refused. Whoever would take the pains to read the French debates, would find that the members of the French Chambers insisted on no other principles than we ourselves did. The French constitution declared that the Chambers must act upon every grant of money required to fulfil the stipulations of a treaty; and their speakers stood upon this constitutional right. [Here Mr. C. quoted copiously from the speeches made in the French Chamber of Deputies.]

Now, if the matter debated there was mainly, or in part, a constitutional question, ought we to proceed to hasty and rash measures because they came to a different conclusion from that which we might think the right one? The question was to this day undecided in our own Government. There were among us, as among them, two opinions as to the obligation of Congress to make appropriations of money to fulfil the stipulations of a treaty. The prevailing opinion was that Congress were not bound, but remained free to deliberate and to decide in view of circumstances. As an illustration of this: were it to be held otherwise, how might the tariff question be at any time unsettled by the stipulations of our foreign negotiators? Should such a principle as this once be sanctioned, what consequences must follow? There would be an end to the power of Congress over the appropriations of public money. And holding such views ourselves, ought we to complain if similar opinions were maintained in the French legislative halls? The matter was not yet fully settled, either there or here. Should the decision of the Chambers be that they could not appropriate money for the treaty, we should then be referred back to the grounds of our original claim before any treaty existed: and then Congress must decide whether or not they would go to war to compel the payment of claims which had been left to negotiation for forty-five years.

The question, however, was still undecided: and, in the meanwhile, all the influence of the Crown and of the cabinet was exerted in our behalf: it was all urged in favor of the fulfilment of the terms of the treaty. Under such circumstances would it, he asked, be wise to go to war? The menace of the message was war. Gentlemen must be blind not to see that France would so receive it. If she was now the same proud and high-toned nation which the history of Europe had so fully evinced her to be, all thoughts of amicable negotiation, under such a menace, must be at an end. There were some things in the speeches of the Deputies which were calculated to startle our pride. They referred to the days of their revolutionary struggle and of ours, and adverted to the great sufferings of both nations in the cause of free principle; especially in the maintenance of that principle, so important in our estimation, that free ships made free goods: that the flag covered the cargo.

[Here Mr. C. again quoted from the French debates.]

Throughout these speeches, Mr. C. found no language or feeling of disrespect towards our Government. And let it be remembered that the subject was one of great importance to the French Government. Let it be remembered that, at the close of that great revolution in their affairs which resulted in the exiling of Bonaparte to Elba, and the letting in all the harpies who accompanied what was called the restoration, the French nation had to pay a thousand millions of francs because she had been struggling for the principles of free trade and the rights of neutrals. Our Government, at that time, disclaimed all part or participation in the doings of those nations who combined together to force the Bourbons upon France—nations whose only purpose seemed to be to emulate each other in robbing the French treasury. All parties in the Chambers agreed in conceding that something was due to us. The only question was as to the precise amount. Bonaparte's Government admitted that, on the very strictest principles of calculation, at least thirteen millions, and on principles more liberal, eighteen millions of francs, were due to the United States. The restoration Government, when they were expelled by the French people, had been on the eve of settling with us for twelve millions; and the existing Government admitted, without hesitation, that a large debt was justly due. The difficult question to be settled, was the true and just amount.

To fix this properly was a work of difficulty and of time; and surely it would be time well lost, should it result in preventing our conflict with one of the oldest and strongest and most warlike nations of Europe. What were two or three sessions of the Chambers, especially when our name was treated with the utmost respect in all their discussions, and while, though they had great difficulty in deciding on questions of their own, which were involved in the decision, they continued to manifest nothing but a friendly disposition and purpose toward this country? Some of their arguments were not without great weight. One of them, especially, seemed entitled to much consideration from a nation which respected its own laws. It was, that a part of our claim was for goods taken during the prevalence of our own embargo and non-intercourse laws, from citizens who were sailing the high seas in open violation and defiance of those laws. They insist that, if our own citizens chose to take the risk of appearing on the ocean in direct disobedience to our authority, they ought to abide by the consequences. But he waived all this. He had stated enough to show that there did exist just cause for some delay. He would only add an extract from one speech, which insisted that, should our claim be allowed without rigid examination, the allowance of it could be placed only on the ground of gratuity. [Here Mr. C. read the extract.]

Mr. C. said that it was his persuasion, after reading these debates, and recollecting that we had the whole weight of the Crown and the cabinet thrown into our scale, that the ultimate decision would be what we asked that it should be.

But there was another aspect of the subject, and a very serious one. It was this: that, should we go to war at this time, we must do it upon a deficient treasury. Not only was the treasury of the nation destitute of a dollar, but there was an actual deficit of two millions and a half of dollars! This he was prepared to demonstrate. He did not consider that, however, as at present necessary. He had the vouchers ready to establish his position. Now, should the nation go to war on such a treasury, what must be the consequence? He had risen with no wish to rouse jealousies, or awaken angry feeling; but to make a speech pacific in all respects; and he hoped that what he had yet to say would be received in no other spirit.

But it was plain that if we went to war, it would be, in effect, with all the world. The field of battle would be the high seas; and there we had a commerce afloat to the value of two hundred millions, viz: ninety millions outward, and one hundred and ten millions inward; and this would immediately be subject to the vessels of all nations, provided they did but hoist the French flag. It would not only be a war with a nation numbering thirty millions of people, but it would subject us to attacks from all other quarters. Yet let him not be misunderstood. Let no gentleman suppose him to be unwilling to risk all this; yes, and ten thousand times more, on a question where the national honor was involved; but he never could consent to expose the property of his fellow-citizens to such a hazard, until all proper measures of a pacific character had been tried in vain.

The nation was now said to be out of debt; and the fact was the envy and admiration of other Governments, and the pride of our own. But if we went to war, we must instantly plunge into a new debt. And what would be the further consequence? As our commerce must be destroyed, the natural course of things would be to turn capital from commerce to manufactures, just as it had happened during the last war. Our citizens would, as soon as possible, withdraw their capital from the ocean, where it would be subjected to such a risk of destruction, and invest it in manufactures. And what next? Why, then, we should have appeal upon appeal for protection, and the tariff must be raised. And then all the difficulties between the Northern and Southern States must be aroused afresh. Could any gentleman look at such consequences, and not feel a desire to avert war, if it could be done with honor?

Mr. C. observed that it had been his purpose to say much more, but that he was physically unable. He had not risen with any desire to make a flourish, but to recall to the consideration of the House the pacific relations which had subsisted between this country and France for forty-five years. The President seemed disposed to hurry Congress into a course which must forfeit at once all this mutual good understanding. It was not his wish to recall scenes that were past, although one of the French Deputies had done so, and had adverted to the time when the flags of France and America were flying in the same field, and joined in the same cause. He would only ask the House to look on that picture, (pointing to the portrait of Washington,) and then on that, (pointing to the likeness of Lafayette.)

If the pictures of those great men could speak now, what would they say? While the House was engaged in deliberating on a war with France, it would be well to veil these portraits. He felt assured the American people would approve of no such war. Virginia would

never do it. Mount Vernon would never allow it. Yorktown would not consent to it. All the South would oppose it. The nation was unprepared for it; the circumstances did not demand it.

Mr. CLAIBORNE, of Virginia, said he rose to support the motion made by the gentleman from Georgia, [Mr. CLAYTON.] He said he could not refrain from mingling in the discussion of a question so vitally interesting to his constituents and to the world. Were he dumb, he would make an effort to break the bands of silence, to give utterance to his feelings upon this all-important subject. Mr. C. said he spoke on this question without premeditation, relying upon the spontaneous feelings of his heart, and the best interests of his constituents, to direct both the matter and the manner of his address. He said the winds of heaven at this moment were wafting the President's message to every portion of the civilized world. It had been asserted that the message contained no menace—no threat. But I fear, said Mr. C., it may be differently understood by the French people, and that they may look upon it as having received the sanction of the American nation. He said he believed the nation wanted, if possible, to live in peace with all foreign Powers. It was their interest as well as duty. He said he had no hesitation in asserting that, as far as he had been able to ascertain public opinion, it was adverse to war. The people were disposed to live in peace with all the world, and especially with their ancient friend and ally, France. From this determination they would not depart, as long as they could adhere to it without a sacrifice of national honor.

Mr. C. asked, what did the President recommend? He recommended, in the event of a certain contingency, to wit, the French Chambers not making the necessary appropriations to carry into effect their treaty with us, that then, and in that event, he, the President, should be authorized by Congress to make reprisals on French property to the amount of the sum stipulated to be paid the American Government in the treaty of the 4th of July, 1831. Yes, said Mr. C., to arm him with power to seize upon the property of innocent and unoffending individuals. If this power be conferred upon him, it will be virtually conferring upon the President unconstitutional power--a power to declare war. For, disguise the fact as gentlemen may, I can view it in no other light than a declaration of war. Is there any gentleman on this floor who does not believe that war will be the inevitable consequence of the measure? Yes, sir, it will follow with the certainty that the peal of thunder succeeds the electric flash in the gathering storm. Sir, I am not afraid to express my sentiments on the present occasion. I am one of the representatives of the people, and a free man. I come here to advocate the people's interest. This is the goal that I direct all my efforts to. I will support the measures of the administration when I think them right, and oppose them when I believe them wrong. I am no partisan; and if an imputation of that sort should be made against me, self-poised and self-sustained, I will stand conscious and erect. Gentlemen have read history to little effect, if they are ready to clothe a single individual with the power of making war. If we are to derive wisdom from experience and from the admonitions of history, we will withhold it. The granting of this power improvidently has carried the sword through the fairest provinces in the world, and brought ruin to the doors of millions. When cause of war shall exist, and the honor of the nation shall demand a declaration, I will, as the representative of a proud and chivalrous people, join in meeting its horrors; but, until dire necessity shall require it, I shall use all my efforts to avoid it. Policy, sound morals, every thing tells me this is the proper determination.

But, Mr. Chairman, does the existing difference between the United States and France present such a case? In my humble judgment it does not. What, sir, is the state of the fact? Is not the Executive Government of France making use of every exertion to obtain from the Chambers the necessary appropriations? Does it not already appear to every gentleman, who has given himself the trouble to read the debates in the Chambers, that a respectable portion of that body do not regard the treaty as binding until ratified by them, the only constitutional power in the French Government to levy a tax upon the people? We should, in the examination of this question, have some regard to the existing state of affairs in that country. What would be our situation, if the President and Senate were to make a treaty, and in that treaty stipulate to pay a sum of money, and Congress was to refuse to grant the appropriations? The President would surely, in that case, recommend the disappointed nation to stay their hand a little, and give time to effect a change of public opinion. The Government of France and the Government of the United States are Governments founded on public opinion, and sustained by popular sentiments and popular feelings. Who says nay to this proposition? None; no, not one. It ought to be remembered, that a majority of eight only were against the necessary appropriation, at the time the question was first taken in the Chambers. It cannot be forgotten, that the King has pledged himself to present it at the next meeting of the Chambers, and again urge the necessity of the appropriation; and we know that it is his fixed purpose to do all in his power to have the claim adjusted. With a knowledge of these facts, shall we indulge for one single moment in the language of menace, and provoke a war with France, our oldest and most steady friend? A people who stood by us in the hour of peril and danger, who mingled their blood and treasure with the blood and treasure of our fathers, in fighting for the liberties of our beloved country? This great citadel of republican government was erected by the joint efforts of our fathers and the French people. Were I to experience for a moment other than a wish for eternal peace between France and the United States, some ghost, smeared with blood, would rise from the plains of Monmouth to upbraid me. Do not draw wrong conclusions from what I say. I am the advocate of peace. An eloquent writer has well said, the heart that can mourn over the havoc and desolation of the fields of battle, is closely allied to the arm that is ever ready to protect innocence from outrage, and society from oppression. It is the emblem of moral courage--the daring to do what is right.

Sir, is it inconsistent with genuine courage, before you enter into a contest, either as private men or public functionaries, to calculate the consequences that will follow? Sir, ours is the most commercial nation on earth, except Great Britain; our merchant vessels are incessantly wafting the products of our soil from the frozen belt that encircles the northern pole, to the sandy bars which environ the antarctic circle. At this moment the surface of the ocean is whitened with the sails which cover her millions of American property. Declare war to-morrow, and two months will not have elapsed before all the unemployed shipping of other countries would apply to France for letters of marque and reprisal, and under the French flag pounce down upon and sweep this vast commerce from the ocean. Then in a brief period would be presented to your eyes the melancholy spectacle of your commerce ruined, your surplus produce unsold, your seaport towns languishing, and every village and cottage from Maine to Georgia withering before the blighting effects of war. Mr. Chairman, let me here say to you, that the American people should be the last on earth to go to war, and for this plain reason

they have more at stake than any other. Our Government is the admiration of the whole world. No people among civilized nations enjoy a higher degree of freedom and happiness; none who have their civil and religious liberty better secured. This Government, administered in its purity, is an ample shield, behind which the people may stand in the full enjoyment of all the hopes of freemen; nor are we, Mr. Chairman, alone interested in the success of our Government. The enlightened and liberal in every portion of the earth pray for the preservation of our political institutions; already have foreigners come here to study our laws, and have gone home with their minds richly imbued with liberal principles, and have been enabled greatly to ameliorate the condition of their own countrymen.

Mr. C. said he felt that the mild and philosophical principles he was enforcing were in perfect accordance with the principles of the American Government, and would receive the sanction of the enlightened district which he was proud to represent.

He said he felt certain that, in the vote he should give, he should represent the feelings and wishes of his constituents. He was well satisfied that, if the naked question was submitted to them, their high sense of justice and morality would revolt at the idea of this Government seizing by force the private property of the citizens of France, to indemnify some speculating merchants for losses sustained under the Berlin and Milan decrees of France, made by way of self-preservation against the unlawful orders in council of Great Britian, in declaring not only the ports of France, but those of neutral nations, in a state of blockade. It would not be forgotten that the United States, by the passage of her non-intercourse law, adopted measures of retaliation, and thus lessened her claim to indemnification for spoliations under the Berlin and Milan decrees. They would claim indemnity for spoliations committed upon property after the repeal of those decrees by the French Government.

Mr. Chairman, I believe the French owe us fairly more than twenty-five millions of francs. You are aware, however, that the French Government, at no time before the establishment of the Government of July, acknowledged that they owed this Government more than two and a half millions of dollars, and against this sum that they claimed an offset for what they conceived a violation, on the part of this Government, of the 8th article of the treaty of 1803, between France and the United States, stipulating that French vessels should be received in the ports of Louisiana upon the terms of the most favored nations, which they contend was violated when they were not put upon the same footing with those of Great Britain, after the treaty of Ghent. When such difficulties have grown up between us, said Mr. C., what is the course to be pursued? I answer and say, let us address the French Government in the language of friendship; let us say to them, we believe you owe us twenty-five millions of francs; you have agreed by treaty to pay us that sum. If you complain that you were under a misapprehension of facts—point out errors; we are ready to correct them; we want only our due, and we feel you are too magnanimous, when you are satisfied of the true amount due, to withhold it. The people of France certainly must desire to be in peace and amity with us; I have confidence that justice will be done us by the French Government; that the interruption of good feeling will be momentary, and will pass away, and be succeeded by days and years, and I hope centuries, of brotherly love. Good Americans and good Frenchmen desire this state of things; and that the peace now happily existing may exist for ever, is my most ardent wish. I could, sir, have said a great deal more, but less was impossible.

Mr. WAYNE, chairman of the Committee on Foreign Affairs, observed that the amendment offered by the gentleman from Georgia to the proposition of the gentleman from North Carolina, to refer to the Committee on Foreign Affairs so much of the message as relates to our concerns with foreign nations, was improper as to time, and in its matter. He thought discussion now, upon the subject to which the amendment relates, would be premature, and might do much harm. Indeed, if the admission made by the gentleman in his remarks could in any event be taken as the sense of the House, or of any portion of the people of this nation, much injury would be done to those who were interested in the faithful and speedy performance by France of the stipulations of the treaty of the 4th July, 1831. But the gentleman's admissions would have no response in this nation. He proposes to terminate all inquiry into the affair, and to prevent any action by Congress upon the message, by instructing the committee to report that it is expedient to await the further action of the French Chambers—and his reason is, that the postponement of voting money for the payment of the instalments due by the treaty, has arisen from the delicate and important character of the claims referred, and the peculiar complexity of the principles involved in their adjustment. In other words, that the French legislators have been for two years and a half discussing principles which they do not understand, and still require time to enable them to come to a correct conclusion. And yet the gentleman, with nothing before him but a report of the discussions of the Chamber of Deputies, without any of the correspondence between the two Governments, since the failure upon the part of France to discharge her obligations under the treaty, had, in two or three short days, been able to unravel the intricacy of the whole affair, and so satisfactorily to himself that he proposes to substitute the results of his happy ability for the examination of the committee and the more deliberate judgment of the House. It would have been well at least, and a prudent man would, either for censure or praise, as he might be disposed, have postponed his conclusion until he had ascertained how far the message, relating to this affair, could be sustained by the correspondence between the two Governments since the ratification of the treaty. It would have occurred to another, that the affair, as presented to the nation by the message, imposed upon Congress the necessity of inquiring into facts, with the view of determining upon the propriety of the President's suggestions, and carrying them out, or of devising some other means to secure the rights of those for whose benefit the treaty had been made. Congress had now become the guardians of the rights of our citizens, vested in them by a treaty, which France must perform, or for which the United States, as a nation, must receive an indemnity, at some time or other, to the full extent of its original obligations, and all the consequences which may ensue from a refusal by any department of the French Government to fulfil the stipulations of the treaty. But the gentleman could only see in the message a declaration of war, and all the disasters which follow in the train of war. If his object had been to fall into the current which, for some days, has been flowing in a certain channel, to produce the impression upon the public mind that the President designed to provoke a war with France, the gentleman had taken the proper course to effect his intention, notwithstanding he had disclaimed any party feeling in his movement. There was nothing in the message of a warlike character or threat. All idea of menace is in terms denied, and the French character, Government, and people, are treated with the respect and regard due from one nation to another; when either, by putting itself in the wrong, justifies the language of complaint. Nor is the message without a reference to

those recollections which, if France will cherish by doing us justice, the United States will never forget, nor cease to acknowledge. There is a difference between a firm attitude in the pursuit of acknowledged rights, and the language of menace. The President, after giving a narrative of all that had taken place since the treaty had been concluded, recommends, if an appropriation shall not be made by the French Chambers at their next session, that some legislation shall be enacted by Congress to meet the predicament in which we shall be placed by the refusal of France to pay an acknowledged debt. In anticipation of that event, the rights of our citizens can only be sustained by prompt measures. But they are only to be contingent—until the refusal of France shall be complete. The refusal has already been as positive as it can be by one of the departments of the French Government. The information received by us of that, fact in May last, would have justified then some ultimate measure of redress; but the course of the King of the French called for our forbearance. Since that time there has been another meeting of the Chambers; but no appropriation was made, nor was any effort made by the King or his ministers to procure one. Then the Chambers were prorogued to the last week in December, and now it is only possible that we can have, during this session of Congress, the result of the King's assurances that it was his intention to press the appropriation at the ensuing session of the Chambers. Almost three years have passed since the appropriation for the first instalment under the treaty should have been made, and since the ratification of the treaty there have been five sessions of the Chambers. With this procrastination in view, will any one, having a proper American feeling, and who appreciates Government as he should do, by its ability to give happiness to its citizens at home, and to obtain for them redress when wronged by foreign nations, complain of the President because he has expressed his confidence that no branch of this Government will, for a moment, entertain the idea of acquiescing in a refusal to execute the treaty, or because he has said further negotiation is out of the question? Because, whilst deprecating the consequences of collision with France, he has said, in maintaining our national rights and honor, all Governments are alike to us? Or for having recommended the mildest or only alternative short of war, when one nation obstinately refuses to pay to another an unliquidated debt? The President has not asked that the power of authorizing reprisals should be put into his hands. He recommends reprisals, if another sitting of the Chambers shall be closed without definitive action upon the subject; but he does not attempt to prescribe or to intimate the time or manner of its being done, and only assures Congress that its decision shall be faithfully executed, as far as it shall authorize him to act. By his language, Mr. W. understood, and so he believed the whole nation would understand, the President to say: Not having shunned the responsibility of making the recommendation, I am sincere in the determination not to shun the responsibility of executing the decision of Congress, whatever that may be.

And as for having recommended reprisals in the event of the French Chambers again refusing to execute the stipulations in the treaty, those who may dislike such a course should remember reprisals or a tame acquiescence in the refusal, is all that we shall have left to us short of war. Reprisals, though sometimes leading to war, are more frequently the means of preventing it. In this case, will it not be so? For, besides the just cause which we shall have for resorting to it, we have the honor of the King of the three days, that he differs from the Chambers in his sense of the obligations imposed upon France by the treaty; and, without a declaration of war by himself, it cannot be made by France. So much, Mr. W. deemed it right to say, in regard to the message, in reply to the misconceptions of it by his colleague, and in answer to his apprehensions of war.

But there were two points of view in which the subject was presented, to the House; and from the mere intimation of them, it would be obvious that it should be sent to a committee, untrammelled by instructions. The first were the rights which our citizens had acquired under the treaty; and, secondly, what national honor would require from Congress, if the French Chambers persevered in refusing to execute it. If the amendment prevailed, it would be equivalent to a postponement by Congress of the rights of our citizens. The subject should be fully canvassed by a committee, and afterwards, upon its report, by Congress, that our merchants might feel and know that their pursuits were under the vigilant guardianship of Congress, and that all the world might see, however long it may be delayed by circumstances, that there was to be a day of retribution for every outrage upon our commerce, under whatever pretence or by whatever nation it might be committed. The sense of this security will give life to our enterprise in every clime, and confidence to our mariners upon every sea. In this instance, the subject should be sent to a committee without instructions, that it might deliberately inquire and report that course which Congress should take as the best fitted to induce France to fulfil her obligation, or what will most successfully accomplish the purpose, should it be thought advisable, now or hereafter, to redress ourselves. But I do not propose to argue this point, at this time. The intimation of it is enough to ensure the rejection of the amendment. As to what national honor would require, if France persevered in her course, and definitively refused to recognise our rights under the treaty, and also to make reparation for her delay in doing it, Mr. W. was not mistaken when he said there would be but one sentiment among the American people as to the course to be pursued. It would no longer be a question of dollars and cents, but of national honor, demanding every sacrifice of money and of life to maintain it, with the superadded obligation to sustain all that the laws of nations required in regard to treaties. The cause would not only be ours, but that of every nation having treaties, or which may have to make treaties, with France. Mr. W. would not pursue this topic. He had thought it to be his duty, from the relation in which he had been placed to the House, to make some remarks upon the amendment proposed by his colleague, and upon his speech, that the public might be advised of the true state of our affairs with France, and to prevent the message from being misconceived by those who might read the remarks of his colleague. The ordinary course was, to refer subjects bearing on our foreign relations to the Committee on Foreign Affairs. Why do so, if the committee was to be locked up by instructions, which took from it the freedom of deliberation, and confined them to report the judgment of an individual. His colleague had expressed himself in a speech professing much benevolence, and full of apparent patriotism; but the course he proposed, if countenanced by the House, would compromise the interest of a large class of his fellow-citizens, by adding to the foreign obstacles already in the way of the payment of their claims, all the prejudices of party at home. But he would say no more, for he was convinced the impropriety of his colleague's movement would be manifested by an almost unanimous rejection of the amendment, without further debate.

Mr. ARCHER said he had risen not to take any part in lengthening the debate, which he agreed was premature, but to suggest to the honorable gentleman from Georgia the expediency of withdrawing his amendment.

Even supposing him to concur with that gentleman in the views he had expressed, he could not vote for his resolution; and if he should insist upon pressing it at this moment, it would only be to invoke a decision of the House against his own views. The whole object of the honorable gentleman would be equally well attained, should he allow the subject to go to the Committee on Foreign Affairs, and suffer that committee to report. Where was the advantage of pressing the resolution now? The rejection of it by the House would only counteract his object.

Mr. CLAYTON rose in reply. He said he was sorry he could not accept the suggestion of the honorable gentleman from Virginia, for whom he entertained great respect. He considered this one of those occasions on which to be found in a minority of one would be to occupy one of the proudest stations which any man could hold. He would leave it to the nation and to posterity to say whether it was not well done, to endeavor to prevent that excitement, and the rousing of all those feelings of imbittered hostility, which would be at once let loose should the House in any degree sanction the views suggested in the executive communication. He would ask gentlemen whether they were not as well prepared now as they would be after a report was rendered, to judge on the expediency of the course proposed? The step he had taken was no unusual one. Two months of the last session had been occupied in debating a proposition introduced in precisely the same way. What, he asked, would be gained by sending this subject to the Committee on Foreign Affairs? Had not the House all the documents before them? Were they not printed, and on the table of every member? All the committee would have before them, the House had before it. There was no ambiguity of meaning; the whole case was as plain as the committee could make it.

He was willing so far to comply with the wishes of his friend from Virginia as to postpone the subject for a week. But why wait for a long report, when they could as well judge and act without it? If the House was ready at once to reject his proposition, the natural inference would be that there was a majority in that House disposed and ready to go to war with France. The gentleman (his colleague) from Georgia, it seemed, could see nothing hostile, nothing of war, or warlike, in the message of the President. But Mr. C. would appeal to the common sense of any man to say whether the language of the message did not contain a menace.

"I recommend that a law be passed, authorizing reprisals upon French property, in case provision shall not be made for the payment of the debt at the approaching session of the French Chambers."

Here the President insisted that but one session more of the Chambers shall be permitted to pass, till letters of marque and reprisal shall be issued by this Government. Who did not know that the first act of reprisal would be considered by France as an act of hostility, and met on her part with instant retaliation? As to the interest of the American claimants, to which the chairman of the Committee on Foreign Affairs had alluded, Mr. C's proposition was manifestly safer for them than the measure of the President. The moment we went to war, the claims were gone. When the clouds and smoke of war cleared away, the claims would all vanish with them. Whenever peace was proposed, the whole would be sacrificed. What he wanted was to give to the people of France the evidence that the people of America were not disposed to go to war with them; that we respected them as friends, and desired them to remain friends. If he thought that a long report (however able) from the Committee on Foreign Affairs would throw any new light upon the matter, he would willingly wait for it; but he could not believe but that the House was as ready now as it would be then. Could it be the wish, the design, of any gentleman to throw this agitating question abroad, and rouse the national feeling into a state of perturbation? He trusted not. He was sorry that he could not withdraw his motion; he was willing, however, to defer the subject for a week, as he had said, or even for a fortnight, if gentlemen insisted; farther he could not go.

Mr. R. M. JOHNSON said the gentleman from Georgia assumed, at the threshold, that the recommendation of the President was a proposition to declare war. He certainly did not so consider it, nor did the President himself. The code of civilized nations expressly recognises the right of reprisal in a nation from which a just debt is withheld, as a mode of redress compatible with the continuance of peace. But the President does not propose even this redress short of war, but under circumstances which the gentleman from Georgia says would render an appeal to arms not only just, but indispensable, to preserve the "national honor," for which he is prepared to make ten thousand times greater sacrifices than he has depicted as necessarily resulting from war. He says our claims on France are just; that we have not asked a cent more than is just; that the treaty stipulates for nothing more than is just; and that a refusal to execute it is "a just cause of war." Well, the French Chamber of Deputies have definitively and positively refused to pay the money, which the nation has bound itself, by the most solemn of all obligations, to pay. The Chambers, after successive sessions of elaborate discussion and long deliberation, have defeated the stipulations of the treaty, by the rejection of the proposition of the King of the French to provide for the payment of our demands. The President of the United States, however, in communicating this fact to Congress, does not call upon us to act upon this peremptory refusal as "a just cause of war." He does not ask that we should consider this violation of the faith of treaties and insult to our national honor, as making proper an immediate appeal, for redress, to the remedy of reprisals, of which the late example of France, in regard to Portugal, affords a practical illustration. No, the President proposes a course of greater moderation than the principles avowed by the gentleman from Georgia, and the late precedent set by France herself, most clearly justify and invite. The message would have us overlook the wrong already inflicted, and the affront offered in the first absolute refusal of the French Chambers to comply with the treaty. It proposes, in the event of a second denial of justice by the newly elected Chambers, that then only shall the violation of the treaty be regarded as conclusive, and as shutting the door against a hope of voluntary redress on the part of France; and even after this consummation of wrongs, which have remained twenty-five years unredressed, the President does not, in his communication to us, hold the strong language of the gentleman from Georgia, and say that it forms "a just cause of war," but only insists that it is a just cause for reprisals—that is, that we should take possession of as much French property as would be sufficient to pay the sum stipulated in the treaty; and, after retaining it a sufficient length of time to give the French Government an opportunity to redeem it, by the payment of the sum acknowledged to be due to our citizens, that it should be confiscated, as the property of our people was by France twenty-five years ago.

It is premature, however, to enter into this discussion now. The House has before it a mass of documents. It was its duty, through its committee, to sift them thoroughly, and look into all the bearings of the case. No man entertained more friendly feelings towards France, he said, than he did, and none would be more

unwilling hastily to sever the ties of the ancient friendship which has existed between France and the United States. He would observe all the forms which are introduced into legislation, for the purpose of giving due deliberation to all proceeding in this delicate subject. The haste with which the gentleman would rush into a discussion and decision of the great and important subject, was neither respectful to those who administer the Government of France, nor to our own administration. The President, as we have seen, wishes the final action of this Government to await the final determination of the French Chambers. And there can, therefore, be no motive for the precipitation with which we are invited to express an opinion as to the intentions of the French Government, and to adopt a course predicated among our suppositions in this respect, when the final measure contemplated here is to await the full development of the intentions of France in the overt acts of its representative body. For the present, the usual course of delay, for the sake of deliberation, should, he thought, be taken by our councils. The subject should be submitted to the Committee on Foreign Relations. It was an able committee, and would, in its report, take a view of the whole ground. The question was too solemn to be sported with. He could not consent to vote for the instructions proposed, and yet he disliked to vote against the proposition of the worthy member from Georgia, towards whom he entertained the most kindly feelings. He had uttered the most patriotic sentiments, and was actuated by the most honorable motives. The gentleman had thrown out a most excellent speech, which would go to balance the effect of the President's message. But the gentleman had not examined the subject in *extenso*. He (Mr. J.) would, therefore, add his appeal to that which had already been made by the worthy member from Virginia, [Mr. ARCHER,] that he would consent to withdraw his motion. He had listened to the excellent speech of this member with the greatest pleasure; and he always did listen to him, whenever his multiplied occupations would at all permit, with the greatest interest and satisfaction. The gentleman could not but be aware that the instructions, should they be adopted, though they might bind the committee, would not bind the House. He trusted they would be withdrawn.

Mr. CLAYTON remarked that the gentleman from Kentucky [Mr. JOHNSON] had flattered him, instead of reasoning with him. He would, therefore, withdraw his amendment.

The committee then rose; the chairman reported the resolutions to the House, and they were then adopted.

[The following gentlemen were announced as the select committee on the part of the House on the death of Lafayette: Messrs. HUBBARD, LINCOLN, WHITE, ALLEN of Virginia, and MARSHALL.

The following gentlemen were also announced as the committee on the destruction on the Treasury building: Messrs. GILMER, ARCHER, BINNEY, BEARDSLEY, GORHAM, JOHNSON of Kentucky, SPEIGHT, HUBBARD, and CARR.]

The House then adjourned.

WEDNESDAY, DECEMBER 10.

EXPLORING EXPEDITION.

Among the petitions and memorials presented to-day was one by Mr. PEARCE, of Rhode Island, of John N. Reynolds, lately returned from a voyage of exploration in the Pacific ocean and on the Northwest coast, praying that an expedition may be fitted out to survey the islands and reefs in that ocean and on that coast. The petition was recommended by both branches of the Legislature of Rhode Island; and Mr. P. stated that the Legislatures of several other States would join in the prayer of the memorial, as would the merchants and chambers of commerce in the principal cities of the Union. To show the importance of the object in view, Mr. P. stated that there were now engaged in the whale fishery 132,000 tons of shipping; that there were employed 10,000 seamen; and that the business direct and indirect employed 170,000 tons of shipping, and more than 12,000 seamen; that more than one-tenth part of our whole navigation was engaged in it; and the capital invested was $12,000,000. He further stated that the annual loss of property, upon the islands and reefs not laid down upon any chart, was fully equal to the expense of the expedition and survey requested.

PUBLIC LANDS.

Mr. CLAY, from the Committee on Public Lands, submitted a resolution making the bill to provide for the reduction and graduation of the price of the public lands the special order of the day for the first Monday in January; also, a resolution that the said bill, and report in relation to the same, be printed.

Mr. EWING suggested that there was amendment to the bill in relation to the public lands, and he desired that it should also be committed with the original bill.

Mr. CLAY had no objection. The amendment would go with the bill, as a matter of course.

The resolutions were then agreed to.

On motion of Mr. CLAYTON, 5,000 extra copies of the report of the Committee on Public Lands, on the subject of reducing and graduating the price of the public lands, were ordered to be printed.

WESTERN TERRITORY.

On motion of Mr. GILMER, it was ordered that the "bill for the establishment of the Western Territory, and the security and protection of the Indian emigrants and other tribes therein," (reported at the last session,) be made the special order of the day for the first Monday in January, and that the report and bill be printed.

CENSUS OF ARKANSAS.

On motion of Mr. SEVIER, the bill directing a census of the inhabitants of the Territory of Arkansas (reported at the last session) was made the order of the day for to-morrow week. Mr. S. gave notice that, when the bill came up, he should move an amendment to it, which, together with the bill, was, on his motion, ordered to be printed.

LOUISVILLE AND PORTLAND CANAL.

Mr. POPE moved to discharge the Committee of the Whole House from the consideration of bill No. 342, "in relation to the Louisville and Portland canal," and to refer the same to the Committee of the Whole on the state of the Union.

Mr. P. observed that his sole object in submitting the motion was to ensure a vote upon the bill at the present session. He disliked to tax the forbearance of the House; but the measure was one of such vital interest to his constituents and the whole Western country, that he felt compelled to sacrifice any scruples he might feel on that head to the demands of public duty. He briefly stated that the bill was reported at the last session of Congress, but, like all others of the same nature, remained on the calendar untouched. The object of the bill was to enable the Secretary of the Treasury to purchase, in the name of the United States, the private stock in the Louisville and Portland Canal Company, and to relieve the navigation of the canal from any tax or toll, except what was necessary to keep it in good repair. He stated that the Government now owned nearly one-third of the stock of the company; and he hoped to be able to show, on a fit occasion, that it should purchase the remainder. He

would only say, at this time, that thirteen States (including New York, Pennsylvania, Maryland, and Virginia) were deeply interested in the passage of this bill. He expressed the hope that, inasmuch as the object of the bill was to relieve from injurious and distressing exactions the commerce of so large a portion of the United States, that the House would indulge him by yielding its support to the motion he had made.

The motion prevailed.

ROAD FROM LOUISVILLE TO NASHVILLE.

Mr. CHILTON submitted the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the justice and expediency of making an appropriation of a portion of the public funds to aid the States of Kentucky and Tennessee in the improvement of the road leading from the city of Louisville, in the State of Kentucky, to Nashville, in the State of Tennessee.

The question on the adoption of the resolution having been put by the CHAIR, and several voices being heard in the negative—

Mr. CHILTON begged leave to say a word in explanation of the object of the resolution. He would merely remark, that the question had been before Congress for four or five years, and that if any object was important, this was. The inquiry had never been refused on any former occasion, and he did not believe it would be now. However much he might be opposed to any proposition, he would never oppose an inquiry. It was known to many here, that the road referred to in the resolution was more important to internal trade than any road west of the mountains. Here Mr. C. particularly described the route, and its connexion with the commerce of Kentucky, East Tennessee, &c. He was at a loss to conceive on what principle the proposed inquiry could be refused.

The question being put, it was decided in the negative: Yeas 72, nays 88. So the resolution was rejected.

After receiving and disposing of a number of resolutions of inquiry, &c., the House proceeded to the

ELECTION OF A CHAPLAIN;

Whereupon,

Mr. WARDWELL nominated the Rev. Mr. Smith;

Mr. POPE nominated the Rev. Mr. Copp;

Mr. THOMAS, of Louisiana, nominated the Rev. John J. Ungerer;

Mr. DEBERRY nominated the Rev. Mr. McKeever;

And Mr. CHINN nominated the Rev. Mr. Slicer.

Messrs. WARDWELL, POPE, THOMAS of Louisiana, DEBERRY, and CHINN, were appointed tellers.

Upon the first ballot, it appeared that 194 votes were given, of which 98 were necessary to a choice. Of these, were received by

Mr. Smith, - - -	32
Mr. Copp, - - -	52
Mr. Slicer, - - -	42
Mr. Ungerer, - - -	27
Mr. McKeever, - - -	25
Scattering, - - -	16

There being no choice, the House proceeded to a second ballot; previous to which,

Mr. HARPER, of New Hampshire, nominated the Rev. Mr. Stockton, of Georgetown.

On the second ballot 189 votes were given; 95 necessary to a choice.

The highest number of votes for any one of the candidates was 55.

The House proceeded to a third ballot, when 183 votes were given; in which Mr. Smith and Mr. Copp received 55 votes each, the remaining votes being divided among several.

Mr. DAVENPORT moved an adjournment; which motion was negatived.

The House then proceeded to a fourth ballot, which resulted as follows. Whole number of votes 176; 89 necessary to a choice:

For Mr. Copp, - - -	60
Mr. Smith, - - -	99
Scattering, - - -	17

The Rev. Mr. Smith, having a majority of the whole number of votes given, was declared to be duly elected as chaplain, on the part of this House, for the present session.

The House then adjourned.

THURSDAY, DEC. 11.

FRENCH RELATIONS.

The following resolution, submitted yesterday by Mr. FOSTER, was taken up:

Resolved, That the President of the United States be requested to communicate to this House (if not in his opinion incompatible with the public interest) any communication or correspondence which may have taken place between our minister at Paris and the French Government, or between the minister from France to this Government and the Secretary of State, on the subject of the refusal of the French Government to make provision for the execution of the treaty concluded between the United States and France on the 4th of July, 1831.

Mr. FOSTER said that he understood the Committee on Foreign Affairs had recently received a communication from the Secretary of State on the subject embraced in the resolution, and that additional information was expected by that committee. He would, therefore, move to lay the resolution on the table for the present; which was agreed to.

PUBLIC LANDS.

Mr. CLAY, by consent, moved the following resolution:

Resolved, That the Secretary of the Treasury be directed to report to this House—

1st. What quantity of public land has been offered at public sale in the several States and Territories.

2d. What portion remains unsold and subject to private entry in the States and Territories, respectively, and how long the same has been so subject in each.

3d. What portion of the public land offered, and not sold at auction, has since been bought at private sale.

4th. What quantity of public land has been sold, and for what sum, in each year, from the year 1822, inclusive.

5th. And the number of acres in each State and Territory, the number sold in each, and the amount received therefor.

NATIONAL ROAD TO NEW ORLEANS.

Mr. CHILTON offered the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of extending a lateral branch of the great national road, usually called the Cumberland road, diverging therefrom at some suitable point in the State of Ohio, passing thence through the States of Kentucky, Tennessee, and Alabama, in the direction to New Orleans, in the State of Louisiana.

Mr. CHILTON demanded the yeas and nays on the adoption of the above resolution, and they were ordered.

The question being taken, it was determined in the negative, as follows:

YEAS—Messrs. John Quincy Adams, Chilton Allan, William Allen, Ashley, Banks, Barnitz, Baylies, Beaty, Binney, Blair, Boon, Briggs, Bull, Burges, Casey, Chaney, Chilton, William Clark, Coulter, Crane, Crockett, A. Davis, Denny, Evans, E. Everett, H. Everett, Ewing of Indiana, Fillmore, Garland, Hard, Hardin, James

Harper, Hawes, Hazeltine, Janes, William C. Johnson, R. M. Johnson, H. Johnson, Lane, Letcher, Love, Lucas, Martindale, McCarty, McKennan, McKim, Mercer, Milligan, Miner, Robert Mitchell, D. J. Pearce, Phillips, Pope, Potts, Reed, Reynolds, Slade, Sloane, Steele, Philemon Thomas, Tompkins, Turner, Vance, Vinton, Watmough, E. Whittlesey, Wilson, Young—69.

NAYS—Messrs. John Adams, Anthony, Archer, Barber, Barringer, Beale, Bean, Beardsley, Brown, Burns, Bynum, Cambreleng, Campbell, Carr, Chambers, Chinn, Claiborne, S. Clark, Clay, Clowney, Connor, Cramer, Day, Deberry, Dickerson, Dickinson, Felder, Ferris, Forester, Foster, Fowler, Philo C. Fuller, William K. Fuller, Fulton, Galbraith, Gamble, Gholson, Gillet, Gilmer, Gordon, Graham, Griffin, Joseph Hall, Thomas H. Hall, Halsey, Joseph M. Harper, Harrison, Hawkins, Henderson, Howell, Hubbard, Inge, William Jackson, Noadiah Johnson, Cave Johnson, Kavanagh, Kilgore, King, Kinnard, Lansing, Laporte, Luke Lea, Thomas Lee, Loyall, Abijah Mann, Joel K. Mann, Manning, Mardis, John Y. Mason, Moses Mason, May, McIntire, McKinley, McLene, McVean, Miller, Henry Mitchell, Moore, Morgan, Muhlenberg, Murphy, Osgood, Parks, Parker, Patton, Patterson, Peyton, Pickens, F. Pierce, Pierson, Pinckney, Polk, Ramsay, Rencher, Robertson, Schley, Shinn, Smith, Speight, Standefer, William P. Taylor, Francis Thomas, Thomson, Trumbull, Turrill, Tweedy, Van Houten, Wagener, Wardwell, Webster, White, Frederick Whittlesey, Williams, Wise—115.

So the resolution was rejected.

IMPROVEMENT OF WESTERN RIVERS.

Mr. CROCKETT submitted the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire and report to this House whether the improvement of the navigation of Obian, Forkdeer, and Hatche rivers, would be a national object; and if so, what would be the probable cost of removing the obstructions to the head of navigation of said rivers.

Mr. CROCKETT said he feared gentlemen did not understand the nature of his resolution. It was a mere inquiry whether those rivers were of a national character or not. At the last session he asked for an appropriation to remove the obstructions out of those rivers; but it was not then so exactly defined by the modern maker of the constitution, as well as the laws, what was national and what was local; nor had this been defined until we got the President's last message. From that it appears, said Mr. C., as if there must be a port of entry on a river to make it of a national character. However, I cannot say there is a port of entry on either of those rivers: but one thing I will say, if the French war should go on, and the French were to land an army at New Orleans, and it were to become necessary to meet them with an army, I have no doubt the district of country around those rivers would be the most covenient to call upon for supplies. It is a rich, fertile country, in general, on those rivers, and it might be considered a national object to improve them, although the port of entry may be lacking. I do hope, said Mr. C., the House will indulge the inquiry, and adopt the resolution. I do not wish to put the Chief Magistrate to the painful necessity of vetoing an appropriation, if I should be so happy as to get one for that object.

The question being taken, the resolution was rejected without a count.

IMPRISONMENT FOR DEBT.

Mr. JOHNSON, of Kentucky, submitted the following resolution:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the expediency of abolishing imprisonment for debt.

Mr. JOHNSON asked the favor of the House to permit him to make a very few remarks in explanation of his course on this subject, and in elucidation of the measure which he had presented for consideration. He remarked that, notwithstanding his deep anxiety in relation to the subject, he had confined his proposition to the District of Columbia; the inquiry might very naturally be made, why he did not embrace the whole United States, as far as the States could be embraced; for it would be obvious to all that any law which Congress could pass, must be confined to the federal courts, and the parties therein. It was not within the delegation of our powers to legislate for the State courts and parties therein. Mr. J. said he had earnestly pursued this subject for seven years, while a member of the Senate and of this House, and he had used his influence in vain in attempting to induce the Congress to abolish imprisonment for debt. His next object was to obtain an act of Congress, by which the State laws on this subject should govern and control the federal courts in the respective States. Congress yielded this point; we succeeded, and the execution laws of the States govern the federal courts, whether for good or for evil. This placed all the States upon State sovereignty and upon equality with each other. Kentucky had totally exempted her citizens from imprisonment for debt, and her law has become the law of the federal Judiciary within her own boundary. Let other States do likewise, if they please. This humane principle towards debtors was progressing slowly, but, he hoped, surely; and he would be mistaken if the savage principle were not in a little time expunged from the code of civilized nations. He believed Kentucky had done what no other State in the Union had done. She had abolished the *ca. sa.*, the only writ which could take the body of the debtor. Imprisonment for debt was totally and absolutely abolished. There was no condition or contingency upon which the body of a debtor could be arrested and imprisoned. In other States, where the same humane and liberal spirit prevailed, he regretted extremely to discover that imprisonment for debt was to be abolished conditionally, except in case of fraud, not absolutely, as it should be. Mr. J. considered that very little had been done where imprisonment was abolished upon this or any other condition—the ways and the means would always be devised, and will be found out, some how, to make the abolition of imprisonment for debt nominal, and thus, under the idea of abolition, the savage principle is retained in its full vigor. He contended for absolute and total abolition. His own State, the State of Kentucky, had acted upon this principle about fourteen years, ever since 1821, and the system met with the universal approbation. Kentucky has not yet found the necessity of passing laws against fraudulent debtors. Whenever it shall be necessary, let the crime and its punishment be defined, and made a part of the criminal code, and not a part of civil proceedings. He believed he might say with truth that, under the present humane system of Kentucky, thousands and tens of thousands of dollars more had been paid in the discharge of debts than would have been under the former barbarous custom. He said that no member of the House, and no citizen of the United States, could imagine the extent of misery and distress which this cruel and unreasonable system was now producing, slowly but positively, in the several States of the Union, although the system was generally mild, compared to what it had been in former times, unless he had access to the annual report of a benevolent society in Boston, which had kindly furnished him with their report for the last six or seven years. If he had the time, and it was in order, he would present facts relative to the subject that would make us blush for our free institutions in this respect. But to return to his

proposition? it was confined to this District. The citizens of the place had no legislative power. Congress had the exclusive legislative jurisdiction of the District, by a grant of power in the federal constitution, and he wished the principle established early in the history of our country, that no person should be imprisoned for debt within the ten miles square. He had no doubt, he said, upon his own mind, that stronger reasons could be given for abolishing imprisonment for debt within the District of Columbia than any equal portion in the United States, arising from the nature of the occupations of its inhabitants, the character of the population, the disfranchisement of its citizens, and other obvious reasons and considerations; and a law to abolish imprisonment for debt would give all parties—the creditor and the debtor—a notice and a warning which would be beneficial to all concerned.

In conclusion, he would remark that he had purposely excluded the States, and confined his proposition to this District, from a conviction that Congress would not absolutely abolish imprisonment for debt; and, unless that was done, no law upon that subject could pass without injury to his own State, by giving to the federal courts a system of executions less liberal, less humane, and less just, than the system now governing State and federal courts within Kentucky; he felt bound, therefore, to attempt nothing that would prejudice the citizens of his own State, while all the States were equally free to adopt her policy.

The resolution was agreed to.

PUBLIC LANDS.

Mr. McKINLEY offered the following, which he wished printed and postponed for a week:

Resolved, That the Committee on Public Lands be instructed to bring in a bill to reduce the price of the public lands to seventy-five cents an acre; and all lands which have been offered for sale and remain unsold for more than five years and less than ten years, to fifty cents an acre; and all lands which have been offered for sale and remain unsold for more than ten and less than fifteen years, to twenty-five cents an acre; and all lands which have been offered for sale and remain unsold for more than fifteen and less than twenty years, to twelve and a half cents an acre; and all lands which have been offered for sale and remain unsold for more than twenty and less than twenty-five years, to six and one-fourth cents an acre; and all lands which have been offered for sale and remain unsold for more than twenty-five years, to become the property of the States in which they lie, respectively; and all persons who reside on the public lands, and shall have cultivated any portion thereof, for one or more years, to have the right of pre-emption of one quarter section at the price above fixed upon the class to which it may belong in the foregoing scale of graduation.

Mr. WILLIAMS suggested that there was a bill already in possession of the House for the like object; and he thought it would be premature to consider this resolution before the bill came up for discussion, and he moved to lay it on the table; but withdrew the motion at the request of

Mr. McKINLEY, who replied that the resolution contained principles which were not in the bill to which the gentleman alluded. The bill only went to graduate the price of lands offered at auction and not sold. But this resolution referred to a general graduation of the prices of all the public lands. He offered it as a test question; and he wished the principle settled. The resolution also contained a provision in respect to pre-emption rights, which the bill did not.

He was desirous that the subject of the disposition of the public domain should be taken up and considered in all its aspects. The question for the House to decide was, what should be the national policy for the future in reference to the lands generally. There was no need of farther considering the question as one of revenue. The object for which the domain had, to any extent, been pledged, was now accomplished; the public debt was paid. It was unnecessary to look at them in reference to revenue; and he desired to have a decision whether the poor citizens, who were without land, should have an opportunity of procuring it on easy terms. The discussion of the resolution would not, in anywise, interfere with that of the bill. Mr. McK. said he felt himself pledged to his constituents on this subject; it was to them one of the utmost importance. For though lands of the first class were, for the most part, disposed of, there was still a great deal of refuse land within the limits of the State, which it was desirable to bring within the reach of persons of small means. All he wished was, that the resolution might be printed now; and when it came up again, if the gentleman was not satisfied, he could have it postponed to a more distant day.

Mr. WILLIAMS disclaimed all wish to prevent discussion, but he did not wish two discussions on the same thing. The bill would bring up the whole subject of the public domain, with all the questions connected with it. The honorable mover had anticipated the debate by touching several of the most important points. He had said that there could be now no further need of considering the public lands as a source of revenue. Now, if the gentleman would show that the United States never would, at any future time, be engaged in a war, and in need of revenue to support it, there might be something in what he had said. But he had always believed that this nation, like every other, might calculate on wars, and in that case ought to hold the great national domain as a source of revenue. He was for holding on to the present land system; and, even if it must be departed from, he could not be in favor of that suggested in the gentleman's resolution. He moved that the farther consideration of the resolution be postponed to the first Monday in January next.

Mr. CLAY briefly supported the printing of the resolution; when, on the suggestion of

Mr. VINTON, it was referred to a Committee of the Whole on the state of the Union who had the bill on the same subject under its consideration.

The SPEAKER laid before the House a report from the Secretary of the Treasury, specifying the aggregate amount of revenue collected on imported merchandise, tonnage, &c; also, a communication from the same Department in relation to the effect, &c., of the modification of the tariff in certain particulars; which were referred to the Committee of Ways and Means.

The House then adjourned.

FRIDAY, DECEMBER 12.

BURNING OF THE TREASURY BUILDING.

The following message was received from the President of the United States, by the hands of Mr. A. J. Donelson, his private secretary:

WASHINGTON, Dec. 12, 1834.

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 10th instant, calling for any information which the President may possess respecting the burning of the building occupied by the Treasury Department, in the year 1833, I transmit herewith the papers containing the inquiry into the cause of that

disaster, which was directed and made soon after its occurrence.

Accompanying this inquiry, I also transmit a particular report from Mr. McLane, who was then Secretary of the Treasury, stating all the facts relating to the subject which were within the knowledge of the officers of the Department, and such losses of records and papers as were ascertained to have been sustained.

ANDREW JACKSON.

On motion of Mr. POLK, the message and documents were referred to the Committee on the Public Buildings, and ordered to be printed.

CUMBERLAND ROAD.

The following resolution, submitted yesterday by Mr. MCKENNAN, was taken up:

Resolved, That the Secretary of War be directed to transmit to this House any communication he may have received from the commissioners appointed by the States of Maryland, Pennsylvania, and Virginia, to receive portions of the Cumberland road within the limits of those States, respectively, and to erect toll-gates thereon; and to furnish an estimate of the amount of money which may be necessary to complete the repairs of the said road, agreeably to the requisition of the laws of said States, which have received the assent of Congress. Also, that he inform the House what is the condition of the masonry on the road, how many inches of metal have been put on that part of it which has been located anew under the act of Congress, and upon that part of it which lies between the Monongahela and Ohio rivers. And also what depth of metal is, in his opinion, necessary to make a permanent and substantial road upon the plan which has been adopted in its repair by the Department.

Mr. McKENNAN submitted the following as a modification of his resolution; which was agreed to, and, thus modified, the resolution was adopted:

"And also that he furnish this House with a copy of the instructions which were given by the Department to the superintendent, as to the manner in which the repairs upon that road should be made."

PUBLIC LANDS.

The following resolution, submitted yesterday by Mr. WILLIAMS, was taken up:

Resolved, That the Secretary of the Treasury be directed to communicate to this House the number of land offices and land districts in the United States; the time when they were established, respectively; the quantity of land sold or remaining unsold; and the amount of money received in each district; and the expense of keeping up the land system in each State where it exists.

Mr. WHITTLESEY, of Ohio, moved to amend the proposition by adding the words "and Territories" after the word "State;" which was agreed to; when the resolution was adopted.

Mr. LEWIS submitted the following resolutions:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of authorizing any settler on lands reserved by the Government in obedience to Indian treaties, or otherwise, who settled such lands before such reservation was selected, and who, by reason of such reservation, was deprived of the benefits of the pre-emption law of 1834, to enter, with the proper officer in said land district, two quarter sections of any public lands in such district, at the price of twenty-five cents per acre.

Resolved, That the said committee further inquire into the expediency of authorizing any person, who has cultivated or improved public lands in the year 1834, to enter not exceeding two quarter sections of any public lands in his respective land district, by paying to the proper officer fifty cents per acre for such land, within twelve months from the 4th of March next: provided such individual shall designate said lands before the register of the proper land office by the first day of June next.

Resolved, That said committee further inquire into the expediency of authorizing any citizen of the United States, making oath that it is his intention to settle any portion of the public lands, and who shall actually settle and improve the same for one year, at the end of such period to enter not exceeding two quarter sections by paying into the land office fifty cents per acre, if such public lands have been offered for public sale within five years, and still remain unsold, and twenty-five cents per acre, in case said lands have been offered for public sale and have remained unsold for a longer period than five years.

Mr. WILLIAMS said that the whole subject embraced in the resolutions was already referred to a Committee of the Whole on the state of the Union, and made the special order for the first of January. He hoped, therefore, that the mover would consent to have his resolutions similarly committed.

Mr. LEWIS said, he had presented a mere matter of inquiry which, he hoped would be permitted to take the usual course. He preferred that the subject should go to the Committee on Public Lands.

Mr. MERCER called for a division of the question upon the adoption of the resolutions.

Mr. CLAY could see no objection to the adoption of the resolutions. A new practice, it seemed, was attempted, by referring every thing regarding the public lands broadly to the Committee of the Whole. He objected to such a course, unless the House should first abolish the Committee on the Public Lands. He did not understand the motive which seemed to govern gentlemen in this particular. This was certainly not the place for this subject to be first examined and discussed. It was unusual, and he hoped that the resolutions of his colleague would be adopted.

Mr. CHILTON viewed the subject as one of great importance. He was opposed to the adoption of the resolutions. If gentlemen were prepared to surrender the public domain, the proposition of the gentleman from Alabama [Mr. LEWIS] would be found a very convenient stepping stone. He owed it to his constituents and his country to oppose with might and main every measure of the kind. He was not opposed to the honest occupant, but he objected to the practice of persons who, in defiance of law, entered upon the public lands, with the view of obtaining from Congress undue advantages to which they were not entitled. He should vote for referring the resolutions to the Committee of the Whole.

Mr. H. EVERETT said the resolutions had three objects. The first was a reduction of the price of the public lands; the second regarded pre-emption rights to actual settlers; and the third proposed a new class of cases—to grant pre-emption rights to those who signify an intention to become settlers. He considered the two former points already properly referred; and as to the third proposition, it ought not to be seriously entertained by the House. He therefore moved to lay the resolutions on the table; but withdrew the motion at the request of

Mr. CLAY, who desired to correct a misapprehension. The proposition of his colleague [Mr. LEWIS] had been assimilated to the one offered by another colleague [Mr. MCKINLEY] on yesterday. This was not the fact. The one proposed an inquiry; the other was an instruction to the Land Committee to bring in a bill of a specific character.

Mr. LEWIS had examined the several propositions which had already been referred, regarding the public lands. They were not identical with the one which he had proposed. He had proposed an inquiry in the usual mode. By voting for the inquiry no member would be committed in regard to the measures which might be recommended by the Land Committee. They would be at liberty to oppose any such measure. It was the only method whereby he could bring his proposition before the House. It had been said that one branch of the proposed inquiry should not be entertained by the House. It was certainly no reflection upon this House, nor was it extravagant in its terms, not as much so as one which was presented yesterday. It had reference to lands which had already been offered for sale. He hoped that inquiry would not be stifled, and that courtesy at least would induce gentlemen to allow his proposition to go to the Committee on Public Lands.

Mr. REED said the gentleman last up supposed that the adoption of his resolutions was the only mode by which he could reach his object. He was mistaken. The bill would bring up the whole subject; and, if it did not suit the gentleman's views, he could offer an amendment embracing his present or any other proposition. It was not customary to ask a committee to alter their own bill. The usual practice was to effect that object by offering amendments.

Mr. E. WHITTLESEY reminded the House that this day was set apart by the rules for the consideration of private bills. He therefore moved to proceed with the orders of the day, which was agreed to: Yeas 99, nays 51.

The CHAIR presented a communication from the Secretary of the Treasury, transmitting certain correspondence; which, on motion of Mr. HUBBARD, was ordered to be printed.

PRIVATE BILLS.

This being private bill day, the House went into Committee of the Whole, Mr. Ward in the chair, and took up a large number of bills.

The consideration of the bill for the relief of the legal representatives of Richard W. Meade was postponed till Friday next.

The remaining bills were passed through committee, with the exception of one for the relief of Colonel George Graham, and one for Lieutenant Mervin P. Mix, which were laid aside for the present.

CAPTAIN ISAAC HULL.

The bill for the relief of Isaac Hull gave rise to a long debate. The principal item in the bill proposed to allow Commodore Hull six thousand and odd dollars for the duties of navy agent at the Washington navy yard, which he performed during three or four years, in addition to his proper duties as commandant of the yard.

The bill was opposed by Mr. PARKER, of New Jersey, on the ground that all the services, remuneration for which he claims as extra services, were not strictly such, but required by law when he was appointed. If this claim should be allowed, the heirs of Commodore Tingey would have a claim as good, and which could not consistently be resisted.

Mr. VANDERPOEL, of New York, also opposed the bill, as establishing a dangerous precedent.

Mr. REED, of Massachusetts, replied, and defended the bill. He went into a history of the circumstances connected with the claim, insisting that if Commodore Hull was required to perform the duties of navy agent, in addition to those of commandant of the navy yard of Washington, he had an equitable claim for additional compensation.

Mr. PEARCE, of Rhode Island, opposed the claimo f extra pay, as unreasonable and improper, and not demanded by the nature of the services rendered.

Mr. REED replied, warmly advocating the bill, and arguing to show that the services were entirely extra, and have been performed by a navy agent, some at a handsome salary.

Mr. MANN, of New York, opposed the bill, as amounting to a claim for two salaries for the duties of one office.

Mr. HARDIN insisted that the Government might at pleasure enlarge the duties of any officer; and if he thought them then too onerous, let him resign. Commodore Hull was under no compulsion to serve.

Mr. PEARCE moved to strike out of the bill the clause making the allowance.

Mr. WHITTLESEY advocated the bill, as reported, at considerable length, and with great earnestness. He insisted that the duties were sufficiently onerous for both a commandant and navy agent; they had, in fact, occupied both; and now the office of agent had been abolished, yet its duties had been performed. Ought they not to be paid for? The brave commodore was no accountant; yet he had had to disburse money to the amount of 700,000 dollars. The responsibility was heavy, and the claim fair.

The question was then put on Mr. Pearce's amendment and carried: Ayes 78, noes 62.

The bill, thus amended, was agreed to be reported.

The respective bills were then reported to the House.

The House adjourned to Monday.

[The following is the select committee to which was referred that part of the President's message relative to the election of President and Vice President: Messrs. Gilmer, Archer, Binney, Beardsley, Gorham, Johnson of Kentucky, Speight, Hubbard, and Carr.]

Monday, December 15.

Numerous petitions and memorials were presented and appropriately referred to-day.

COMMUTATION BILL.

Mr. MARSHALL, from the Committee on Revolutionary Claims, moved to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill to provide for the settlement of certain revolutionary claims, (commonly called the commutation bill,) and that the same be recommitted to the Committee on Revolutionary Claims. Mr. M. remarked that, although a majority of the House were supposed to be in favor of the general principles of the bill, yet it was feared that a majority would not sustain it in its present shape. It was with a view to expedite the measure, and render it acceptable to the House, that his motion had been made. The motion was agreed to.

MARINE HOSPITAL FUND.

The following resolution, submitted by Mr. Burges on Thursday last, was taken up:

Resolved, That the Secretary of the Treasury Department be directed to send to this House, in a tabular form, the amount of money paid into the marine hospital fund by all seamen in the mercantile service in the district of Providence, in the district of Newport, and in the district of Bristol, respectively, in the Rhode Island district, from the commencement of the present Government of the United States, up to the time when that fund was by law placed at the disposal of the President. Also, the alike amount, in like form, paid by said seamen after that time and before the commencement of the year 1828; and, also, the like amount, in like form, paid since that time, together with the several sums expend-

ed in each of said districts, respectively, for the relief of sick and disabled seamen, showing the balance due to or from said fund, in each of said districts, respectively, at the several times aforesaid, if any, and how the same may have been disposed of.

Mr. FILLMORE moved to amend the resolution so as to extend the inquiry to all of the revenue districts of the United States. He understood that the gentleman from Rhode Island was apprehensive that the adoption of his amendment would retard and delay an answer to his resolution. This objection would be obviated, when the gentleman was informed that, at the last session, the Senate had made a similar call for information, which the Department was probably prepared to furnish forthwith.

Mr. BURGES suggested to the gentleman from New York that his resolution called for a more minute detail of facts in relation to Rhode Island than the resolution of the Senate did; and the adoption of his amendment would certainly cause great and unnecessary delay, inasmuch as the information called for by the Senate was already prepared. It would, therefore, be rendered necessary, by the proposed amendment, to again go over the whole ground, to obtain the specific information from all parts of the United States, which he only required in relation to Providence. If, however, the gentleman wished this specific information from all parts of the Union, and would offer a resolution to that effect, he would certainly co-operate with him. But he hoped his resolution would not be trammelled with the amendment.

Mr. FILLMORE said, as the gentleman still thought that his amendment would prejudice his call, he would withdraw it.

The resolution was then adopted.

PUBLIC LANDS.

The House resumed the consideration of the following resolutions, offered on Friday by Mr. LEWIS:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of authorizing any settler, on lands reserved by the Government in obedience to Indian treaties, or otherwise, who settled such lands before such reservation was selected, and who, by reason of such reservation, was deprived of the benefits of the pre-emption law of 1834, to enter, with the proper officer, in said land district, two quarter sections of any public lands in such district, at the price of twenty-five cents per acre.

Resolved, That said committee further inquire into the expediency of authorizing any person, who has cultivated or improved public lands in the year 1834, to enter not exceeding two quarter sections of any public lands in his respective land district, by paying to the proper officer fifty cents per acre for such lands, within twelve months from the fourth of March next: provided such individual shall designate such lands before the register of the proper land office by the first day of June next.

Resolved, That said committee further inquire into the expediency of authorizing any citizen of the United States, making oath that it is his intention to settle any portion of the public lands, and who shall actually settle and cultivate the same for one year, at the end of such period to enter not exceeding two quarter sections by paying into the land office fifty cents per acre, if such lands have been offered for public sale within five years, and still remain unsold, and twenty-five cents per acre in case such lands have been offered for public sale and have remained unsold for a longer period than five years.

The question being on the motion of Mr. WILLIAMS to commit the first resolution to the Committee of the Whole on the state of the Union, it was determined in the negative by a vote of 72 to 73.

The question then being taken on the commitment of the second and third resolutions to the Committee of the Whole on the state of the Union, it was decided in the negative.

The question on the adoption of the resolutions was next taken and determined in the negative.

GENERAL LAFAYETTE.

The SPEAKER laid before the House the following message from the President of the United States:

WASHINGTON, *December* 10, 1834.

To the House of Representatives of the United States:

The joint resolutions of Congress, unanimously expressing their sensibility on the intelligence of the death of General Lafayette, were communicated, in compliance with their will, to George Washington Lafayette, and the other members of the family of that illustrious man. By their request, I now present the heartfelt acknowledgments of the surviving descendants of our beloved friend, for that highly-valued proof of the sympathy of the United States.

ANDREW JACKSON.

On motion of Mr. E. EVERETT, the message and accompanying documents were referred to the Committee on Foreign Relations.

The SPEAKER laid before the House two reports from the Secretary of the Treasury: one in relation to the purchase of sites for the erection of custom-houses, warehouses, &c.; the other in response to a resolution calling for the number of custom-house officers and their compensation, &c.; which were referred to the Committee on Commerce. Two thousand extra copies of the latter were ordered to be printed.

The SPEAKER also laid before the House a supplemental report from the Secretary of the Treasury, on the subject of keeping and disbursing the public revenue, with accompanying documents; which, on motion of Mr. POLK, was referred to the Committee of Ways and Means, and ten thousand extra copies were ordered to be printed.

Several private bills, which were reported from the Committee of the Whole on Friday, were severally ordered to be engrossed for a third reading.

ALEXANDRIA CANAL.

The bill authorizing a further subscription to the stock of the Alexandria Canal Company, ordered to a third reading at the last session, was taken up and read a third time.

Mr. HARDIN hoped, he said, that the question would not now be taken on this bill, as the House, he presumed, was not prepared for it. We had already given a hundred thousand dollars to this object, and there was a bill before the House to give a million more to the Chesapeake and Ohio canal. The House was to determine whether it would go on with the wild scheme of making a canal from Georgetown to Alexandria, where nature had made the best canal which could be wished for. How much it would cost was unknown. A bridge, it was said, would cost three millions, if made of stone; and the aqueduct, on stone piers, might cost a million or more. He never relied on estimates. He asked the yeas and nays on the question.

Mr. CHINN was not disposed, he said, to press a decision of the question at this time. He moved to postpone the further consideration of the bill to this day three weeks; which was agreed to.

LAND CLAIMS IN LOUISIANA, &c.

The bill for the final adjustment of land claims in the State of Louisiana, and in the Territories of Arkansas

and Florida, ordered to a third reading at the last session, was read a third time.

Mr. WHITE, of Florida, moved to strike out Florida from the bill; which was agreed to, and the bill was passed.

RAILROADS AND CANALS THROUGH THE PUBLIC LANDS.

The bill to authorize the construction of railroads and canals through the public lands, ordered to a third reading at the last session, was read a third time; and, after some explanations from Mr. CLAY, who offered an amendment to the bill, it was, together with the amendments, postponed to this day fortnight.

PAINTINGS FOR THE ROTUNDO.

The joint resolution for the employment of four native artists to fill the vacant panels in the Rotundo with historical paintings, ordered to a third reading at the last session, was taken up and read a third time.

Mr. J. Q. ADAMS expressed a doubt whether four native artists could be found who were fully competent to the execution of the task to be assigned to them. He moved to strike out four, thereby leaving it discretionary with the committee to employ one or more artists.

Mr. JARVIS (chairman of the committee which reported the bill) remarked that there was no difference of opinion in the committee as to the terms of the resolution; and they had no doubt whatever that four American artists could be found who were fully competent to the work. He did not wish to make a monopoly of the business, as we had done before; and there was nothing, he said, in the pictures now in the Rotundo, which could be adduced as an argument in favor of giving the execution of four more paintings to one individual. He did not doubt four paintings could be executed by four artists, either of which would be quite equal to the best of those now in the Rotundo. Four artists, he believed, could be found, who would adorn the Capitol and do honor to the country. He had, however, no objection to the proposed amendment, nor to the employment of a less number than four, if four could not be found.

Mr. WISE said, in reply to Mr. ADAMS, that he hoped the House would pardon a few observations from him on this resolution and amendment, as he felt a deep interest in the subject. The gentleman from Massachusetts says that he doubts whether four American artists can be found competent to execute these paintings. Sir, I am proud to say and believe that this country—the great masters dead—is richer now in native talents in the fine arts than any country on the globe. Without meaning to be invidious in the naming of our artists, as an American, I will boast that Allston is the finest historical painter, Sully the finest portrait painter, and Greenough is the finest sculptor in the world. And to these I could add the names of twice the number four. One—Chapman—I know to have slept upon his easel during a stay of three years in Italy, before the works of the old masters in the Vatican, and to have had an historical painting engraved by the academy of fine arts at Rome. The country is rich in artists. Though the fine arts are not encouraged here, they are indigenous to the country. The gentleman says that the result of employing four will be that the paintings will be indifferent. Sir, I cannot see how. There are four panels in the Rotundo to be filled. By selecting an artist for each, you will enlarge the field of selection, develop as much native talent as possible, and, by having more than one artist, you will ensure success in the pictures by competition. Such is the object of selecting four. The evil of a monopoly is now to be seen in the Rotundo. The precedent of Trumbull's paintings, instead of being quoted for the selection of one artist, should be cited for the selection of four. Does the gentleman from Massachusetts not know that the piece of the Signing of the Declaration of Independence was dubbed, by a former representative of Virginia, (Mr. Randolph,) the "shin piece?" It may be seen by any who will look at them, that the faces in one are the faces of all four, and that all the faces in the same piece have all the same characteristics. There always will be too much sameness in any four pieces executed by the same hand, however different the subjects; and, therefore, there should be different hands to execute them. Contrast is wanted for effect, besides competition for success. If four are employed, four styles of American painting will be exhibited. I hope, sir, the resolution will pass in its original form.

Mr. WARD said that the subject had been brought before the committee of which he was a member, at its last session, on the motion of the honorable gentleman from Virginia, [Mr. WISE,] and it had there been fully discussed. The committee, in reporting the resolution in its present shape, considered that it was due to American artists that these paintings should be distributed among them. He was proud to know that there were many American artists fully competent to this task. He spoke of Sully, Allston, Vanderlyn, Morse, Chapman, Wier, Peale, Leslie, Trumbull, Agate, Osgood, and others, as native artists whose works would never discredit the Capitol of the nation. With this host before us, he thought it would be highly inexpedient to confine our selections to a less number than that which the committee had proposed. There were, he did not doubt, many young artists in our country, whose names were now, perhaps, unknown to fame, but who only wanted an opportunity to distinguish themselves. Chapman and Wier, he considered, were artists of no inconsiderable merit. They were destined, if generously cherished, if properly appreciated, to become, at no distant day, the most distinguished artists in this or any other country. Nature has endowed these youthful artists with a taste and genius that qualify either of them to adorn the walls of our Capitol with the bright deeds of American history, immortalized by American genius. There were many of our artists worthy and deserving of notice and of patronage, and he hoped some of them would have an opportunity of transmitting their names to posterity in this great work.

Mr. BURGES did not know, he said, what had called forth this immortal band of artists. If we are so crowded by native talent, if we are surrounded and pressed by such a host of native artists, why, said he, do we not let them complete, among themselves, the works for the ornament of the Rotundo, and, when they are so finished as to please every eye, select and purchase such as we approve for our purpose? He himself felt a little tenacious of the right to vote for what subjects he pleased, and it was a right which he would not willingly delegate. If artists selected their subjects, he would wish to choose from their works such as he might approve. He doubted, himself, whether we possessed so many artists who were competent to adorn the Capitol; but, as it was a subject out of his usual path, he did not pretend to dogmatize upon it. He knew Mr. Allston, and had seen some of his works; and he would be very willing to commit the proposed works to his genius. But, if we employed a number of artists to execute the paintings, what subjects would they select? There was one subject in this city of all-absorbing interest, which had formerly been suggested—the battle of New Orleans. At the mention of it, many feel their blood warm, and hearts glow. It might, too, excite some party feeling, some feelings in connexion with the constitution, and some in reference to matters of taste. There was no one point in the battle referred to which could be

selected by the artist as the leading incident. There should be in a painting some point to which every other circumstance should refer. Without this, the picture could have no unity. What makes the unity in the Declaration of Independence? It was one conspicuous individual in the act of presenting the declaration of independence. That was the absorbing act which gave unity to the piece. He did not know but all the gentlemen who had been named were consummate artists; but he was quite certain that they could not paint a battle without unity. It would be a rabble, a rout, or a mob. And how could a mob be painted? In no way, but to place one upon a stump, making a speech. Gentlemen seemed to be too fearful of making a monopoly; but, if we had among our native artists any Corregio or Michael Angelo, he would not put him upon the same level with an ordinary artist. He was not such an admirer of democracy as to divide these works of art upon agrarian principles. Are we, said Mr. B., in such a state of mediocrity, that we have no star amongst this host of artists? If we have such a galaxy of talent, there must be some star of the first magnitude which outshines the rest. He would, therefore, oppose any division of the work among different artists, merely for the purpose of avoiding a monopoly. He would not give to any artist the power to select the subjects. Let them lay the subjects which they arrange before the House, and let us choose from them such as are worthy of the Capitol and of the nation.

Mr. WISE said that it had been urged that this country is not rich enough in artists for four paintings, but he did not expect to hear the question which had been asked by the gentleman from Rhode Island, [Mr. BURGES,] "What is there to call forth so much native talents in the fine arts in this country?" In this country, sir? It is not only the richest in the fine arts now, but is the richest country in the world, sir, in historical events for the pencil of the painter. In historical events of the battle-field, and in the council chamber. Every inch of ground in this country is consecrated to freedom, by events, great, holy, and sacred. Every State in the Union has events to be painted; even the little State of Rhode Island has a great man to be painted. But, sir, this was not the meaning of the gentleman. He did not mean to disparage his country as well as her artists. His meaning peeped out before he took his seat, and was not left smothered in his question. The gentleman appears to tremble lest the battle of New Orleans should be put on canvass; lest some act or event of the President's life should be selected as the subject of one of these paintings. Sir, it is not contemplated by any one that I know of, certainly by no one of good taste, to make an event, however distinguished, as late as any of the last war, the subject of one of these paintings. No artist of good taste, I know, would select any recent event to be illustrated by a master-piece; for it is in painting as in novel writing, sir—you must go back until you meet events hallowed by time, and magnified and mystified by antiquity. For this reason, sir, if the gentleman chooses to propose the amendment, I for one will agree to it, that the selection of subjects shall be confined to a date antecedent to the treaty of '83.

The gentleman asks, though, why not leave it to the artists to select the subjects, finish the paintings, and then, if worthy, for the Government to purchase them? Sir, to every one who has given the least attention to the subject, the answer is easy. The fine arts are hot-house plants. In every country but this they are encouraged. Every court of Europe has a student at Rome, where there is an academy for the study of the old masters. No such institutions are maintained here by the States; the general Government has not the power of this patronage, and private patronage is alone inadequate. Does the gentleman know the magnitude of the undertaking of one of these paintings, the artist thus unaided? Sir, the artist must devote himself exclusively for years to the work; three, five, ay, ten years, are not too long to study and finish a work to adorn your Capitol. He must study anatomy; he must travel to Italy for his materials and his composition. What artist in this country can bear the expense and sacrifice of his time, unless he has the Government contract for his guarantee? None, unless his pockets are lined with at least five thousand dollars to spare and to risk. Besides, sir, above all sensitive men on earth, artists are the most sensitive. They will never consent to undertake such immense works, at so much risk to themselves of pecuniary loss, reputation, and feeling, without a certainty of compensation. They can never be brought by necessity to hazard fortune and fame upon a painting to be offered to this Government; to be undervalued, criticised by every pretender who knows not fore-shortening from coloring, and then to be rejected, perhaps, as unworthy. Sir, you must encourage their efforts before you enjoy the benefits of them, and before your country will be graced by their labors.

The paintings now in the Rotundo were voted for before they were executed. I agree with the gentleman from Rhode Island that the selection of the subjects should be left to the artists themselves. No artist can paint well from the selection of another. His picture must be of his own fancy; he must burn with his own conception, or his painting will never please the eye of the imagination. And if the gentleman from Rhode Island had attended to the resolution, he would have seen that the selection of subjects is left to the artists themselves, subject to the judgment of a select committee. The gentleman asks, who could picture a mob? Hogarth, sir, pictured a mob; and if the gentleman will step into any bookstore having his engraving, he can see a fellow so maddened with the rage of a mob, that he is sawing himself down from the top of a sign post. Sir, I scarcely know what the gentleman means by an "aristocratic painting," or by agrarian principles, in this discussion. One of the reasons why four artists are proposed to be employed is, that we know not who is really greatest of the corps. There is something national in making the trial. It is not to pull down the best to the common level, but to ascertain whether the favoritism of private patronage may not have distinguished some one undeservedly above the others. We have frequently employed foreign artists, sir, at great expense, and I now desire very much to see if America cannot bestow her favors and lawful patronage in such a manner on American artists as to nurture the fine arts, to illustrate, in their turn, the arms, the civic virtues, and the glorious deeds of this illustrious nation.

Mr. BURGES did not rise, he said, to follow the gentleman through all his colorings, but only to contradict one of the suggestions which he had made. The gentleman says that my real purpose peeped out in my remarks. The gentleman knows little of my purposes if he supposes that they are ever concealed, except for want of language to express them, or that they ever in any way peep through my words. He had no objection that posterity should know all the achievements of General Jackson, but he hoped they would never know all the movements of his little partisans who make him a public convenience and accommodation, sometimes following him with applause, and sometimes, when it suited their purpose, with censure. So far was he from wishing to obscure the fame of General Jackson, that he hoped his laurels would go down green to posterity, and freshen in the lapse of ages; but he was not yet so much imbued with the spirit of the times as to make him a public convenience, by lauding him one day and abusing him the next.

Mr. WISE said, in reply, that he could not conceive how he could be made, or how any thing he had said could make him, the subject of the unworthy allusion of the gentleman from Rhode Island. I feel myself, sir, incompetent to make a proper reply to him. Silence is, perhaps, the best that could be made, as that gentleman is notoriously a "privileged character," as he has been called on this floor. But, sir, I cannot conceive why he should, unless from constitutional weakness, as well as weakness of old age, go out of his way to spit at me, on this occasion, his habitual and characteristic venom and malig—

[Here the SPEAKER shook his head.]

Sir, I leave the blank to be filled by the House, who know him well. Sir, I know not, and I care not, whether the President, or any friend of his, desires the battle of New Orleans or any other event of his life, the subject of either of these paintings. As I before said, I would prefer the events of the Revolution; but I care not what subjects are selected, so that American artists are chosen, and the subjects and the execution comport with the dignity of our national history, and the works tend to nurture the arts at home, and redound to the credit of our own country.

Mr. VINTON moved to amend the resolution by inserting "colonial or revolutionary" before the word "historical," so as to restrict the choice of subjects to that part of our history which preceded the peace of 1783.

Mr. J. Q. ADAMS hoped the gentleman would leave out the word "colonial."

Mr. JARVIS opposed the amendment. It would, he said, prevent the choice of one subject, the landing of Columbus, which would give greater scope to the genius of a painter than almost any other. He suggested, as a substitute for the proposed amendment, a provision that no subject should be chosen of a more recent date than the year 1781.

Mr. VINTON accorded with the suggestion, but before the question was taken,

On motion of Mr. CLAYTON,

The House adjourned.

TUESDAY, DECEMBER 16.

After the reception of petitions,

Mr. POLK, from the Committee of Ways and Means, reported the following bills:

A bill regulating the deposite of the money of the United States in certain local banks;

A bill to repeal a part of the act transferring certain duties from the commissioners of loans to the Bank of the United States; and

A bill to authorize the sale of the bank stock of the United States;

All of which were, on his motion, committed to the Committee of the Whole House on the state of the Union, and made the special order of the day for the first Monday of January next.

Mr. POLK also reported a bill making appropriations for the payment of revolutionary and other pensions of the United States, for the year 1835; which was read twice and committed.

FRENCH RELATIONS.

The following resolution, submitted yesterday by Mr. FULTON, was taken up:

Resolved, That five thousand copies of the "proceedings and discussions of the French Chamber of Deputies on the subject of the treaty between France and the United States," be printed for the use of the members of this House.

After a short explanation by Messrs. E. EVERETT, FULTON, and FOSTER, the resolution was amended by striking out five thousand, and inserting ten thousand; when it was agreed to.

REMISSION OF DUTIES.

Mr. CLAYTON offered the following resolution:

Resolved, That the Committee of Ways and Means inquire into the expediency of reporting a law for the purpose of remitting the duties on locomotive engines, railroad car-wheels with rolled iron tires, axles, springs, &c., already imported, or which may hereafter be imported within two years.

Mr. DENNY remarked that, as the subject was connected with the manufactures of the country, it ought to go to that committee.

Mr. CLAYTON replied that it was usual to refer subjects of the kind to the Committee on Finance.

Mr. DENNY said the proposition affected an important branch of the industry of the country, and went to disturb a question which was considered as having been put to rest, at least for a short time. If it were simply a proposition touching the increase or diminution of the revenue, he would not oppose its reference to the Committee on Finance.

Mr. SPEIGHT, as an additional reason for the reference of the question to the Committee on Finance, suggested that the Committee on Manufactures, being favorable to the protective policy, would not favor the proposition; and the mover would be unable, through that committee, to present the question to the House for discussion.

Mr. PARKER said the question did not affect the revenue at all, and did not belong to the Committee on Finance. The business of that committee was to see that we had money enough to meet our expenses. The committee might say that we could do without the money received for these duties, and he had no doubt we could; but the question was whether it was good policy in the Government to allow these articles to be free of duty, to the discouragement of our own manufacture, and by a manifest breach of the compromise on the subject heretofore made.

Mr. POLK rose to speak, he said, to the question of jurisdiction which had arisen between the two committees. He had no particular desire that the Committee of Ways and Means should have charge of this subject, and certainly he did not wish them to take jurisdiction of questions not belonging to them. He would merely state the fact that, heretofore, with scarcely a single exception, propositions of this kind had been referred to the Committee of Ways and Means. All propositions for remission of duties on church bells, railroad iron, steam locomotives, &c., had been referred to that committee. The subjects presented questions of revenue only; for these duties were not laid for protection.

Mr. H. EVERETT supposed, he said, that the proposition was made for the advantage of those constructing railroads, and not with a view merely to diminish the revenue. If the only inquiry was whether the country could dispense with the revenue, it would come within the province of the Committee of Ways and Means. The practice alluded to by the honorable chairman of the committee he considered as irregular; but the present proposition was of a different nature from any of those to which he had alluded. Those articles to which the gentleman referred, as church bells, locomotives, &c., were already imported; but the question now presented is, whether we shall abolish the duty entirely.

Here the debate was arrested by the expiration of the hour allotted to the consideration of resolutions.

Several private bills were then taken up, read the third time, and passed.

PAY OF NAVY OFFICERS.

On motion of Mr. WATMOUGH, the House proceeded to the consideration of the special order of the day, viz: "the bill to equalize the pay of the officers of the navy of the United States."

The House went into Committee of the Whole on the state of the Union, Mr. BRIGGS in the chair, and took up the said bill.

Some conversation took place as to the proper course to be pursued—an amendment to the bill as originally reported having been reported by the select committee—in which conversation Mr. HARPER, Mr. HUBBARD, Mr. MASON of Virginia, and Mr. SPEIGHT, participated.

Mr. HARPER then moved to amend the following clause of the bill: "The senior captain, when commanding a squadron, $5,500," by striking out $5,500, and inserting $4,500.

Mr. H. defended his proposition in a few remarks, in which he declared it to be his wish to be liberal to the navy; but, in this happy time of peace, he was disposed to believe that a smaller allowance, in this case, would be sufficient. He should be ready to increase the compensation in some other of the clauses of the bill, as he was anxious that the officers of this branch of the service should be sufficiently compensated. He desired to see the officers so recompensed that they should not be compelled to run themselves into debt, or to leave their families in a destitute condition. They ought to be placed, in his opinion, more on an equality—the lower classes being raised, and the higher reduced.

Mr. WATMOUGH then rose and addressed the Chair to the following effect:

Mr. Chairman: It becomes me to manifest the grateful sense I entertain of the favor with which the House has this day acted upon my motion to resolve itself into a Committee of the Whole. I am truly grateful to honorable gentlemen for the courtesy extended to so humble an individual as myself. I am more grateful to them for the elevated feeling which has at length induced them to devote their time and attention to the prayers and petitions, too long neglected, of men than whom none more brave, heroic, or patriotic, exist any where. When, sir, I reflect upon the value of the services rendered to the country by the officers of our navy—when I contemplate the heroic deeds which have, from its first organization, distinguished their career—when I picture to my mind their toils, their sufferings, the sacrifices of long continuance they are called upon to make, the dangers they encounter from storm and tempest, from battle and disease, I confess myself lost in amazement that the fostering hand of their Government has so long been withheld from them, and that they have been permitted so long to labor under embarrassments as injurious to their integrity as men, as, permit me to add, they are derogatory to the broad and liberal principles of justice which it is the duty of their country to entertain towards them.

Sir, the auspicious day has at length arrived; my own humble aspirations are at length to be gratified; and the claims of the naval service, founded, as they will be proved to be, upon every principle of justice, expediency, and policy, are to be acted upon by that calm and liberal spirit of patriotism which, I am sure, upon all occasions, but more especially upon this, will actuate the minds of the honorable members of this body.

I am keenly alive to the weight of responsibility this day devolved upon me, and which, perhaps, I have too rashly assumed; certain it is, that if the cause I advocate had no other dependence than the small portion of ability with which Providence has endowed me, it must fail, and with it be prostrated, perhaps for ever, the hopes and expectations of the faithful and the brave. But, sir, thank Heaven, it has other and better reliances; they will be found to spring up in the bosoms and convictions of every honorable member on this floor; conveying joy, not only to the gallant sailor, to whom the honor, and dignity, and security of his country, her commerce and her flag, have been confided in distant lands, but likewise comfort and consolation to the faithful wife who has been left at home in obscurity, and perhaps indigence, to suffer the pangs of absence from all she loves, while, at the same time, she is denied the means of relieving the anxiety of her lonely hours by a participation in those social comforts to which her situation in life so eminently entitle her. That such will be the case, Mr. Chairman, I fervently hope and pray.

I proceed now, sir, in as few words as possible, to explain the objects which the select committee of the House had in view, and the motives which governed them, in reporting the bill now under consideration, and the general principles upon which that bill is founded.

It will be recollected that, on the 2d of March, 1833, a resolution passed the Senate of the United States, requesting the President "to cause to be prepared and laid before the Senate, at the commencement of its session, a plan for equalizing the pay of the officers of the army and navy, according to their relative rank, and providing a stated salary or fixed compensation for their services, in lieu of present allowances."

On the 5th December, 1833, the President of the United States, in a message to the Senate, communicated a plan, proposed by the Secretaries of the War and Navy Departments, and submitted to him in compliance with the above resolution. It is to be found among the documents attached to Rep. 295 of the House, and is marked Doc. 4 on the files of the Senate.

This plan of equalizing the pay of the two services, when first promulgated, produced general dismay. Complaints arose on all hands. The existing organization and efficiency of the army were completely deranged; the rights of the officers, in too many cases, were seriously compromitted, while the pay of the navy, which it had been one of its main objects to improve, was actually reduced below even its present low scale, in some of the most important grades of that service. The idea is not meant to be conveyed that this was intended by the honorable Secretaries. It was, however, by myself believed to be the inevitable consequence of any attempt, too hastily adopted, of dispensing with all the allowances of the land service, and of equalizing the compensation of both services, without a due regard to the wide difference of circumstance and principle which operates upon both.

Such was the situation of this matter in December, 1833. From the first moment of my entrance upon my public duties here, the pay of our navy had been to me a subject of constant and anxious investigation. I had found that it was entirely inadequate; and in 1832 had reported a bill to the House, by leave of the Naval Committee, which I am induced to believe was only not acted upon in consequence of the press of other and important matters which then and subsequently engrossed the whole country. It was certainly my intention, Mr. Chairman, to have urged that bill during the last session. A new aspect of affairs had, however, presented itself. By the report of the Secretaries, the business may be said to have been taken out of the hands of both the Naval and Military Committees of the House. It was certainly not competent for the Naval Committee to decide upon what concerned the land service, nor was it for the Military Committee to undertake to discuss the merits of the naval question.

The ordinary means, therefore, of meeting this question, were adopted. The actual position of the case was

stated to the House, and a select committee appointed, to whom the whole subject was referred. The object of the appointment being to inquire into the expediency of equalizing the pay of the army and navy in the manner proposed by the resolution of the Senate, and attempted by the honorable Secretaries of the War and Navy Departments. That committee had accordingly taken up the whole subject, and had given it a careful and anxious investigation. On the 28th February, 1834, they made, through me, a report to the House, accompanied by a bill, which was intended to cover the whole ground, and which a majority of them believed would obviate the objections made to the proposal of the Departments.

A reference to that report will at once explain to honorable gentlemen all the principles and views upon which the committee had acted—it treats of, and at large, the merits of the naval service, and aims to place the same in as just a point of view as possible before Congress and the country. No doubt whatever had existed upon the mind of any honorable member of that committee as to the entire inadequacy of the existing pay of the navy. The question which arose was one of expediency and economy: Whether it was not proper to compensate the country for the increased expenditure necessarily called for by the increase of the pay of the navy, by a corresponding reduction of that of the army. A majority of the committee believed that it was, and acted accordingly. The bill, No. 334, "to equalize the pay of the army and navy of the United States" was reported, and at the same time was referred for analysis and investigation to the Departments of War and the Navy. It was soon ascertained that the equalization bill, in endeavoring to effect what was just and proper, both in relation to the army and the navy, had failed to accomplish that which a majority of the committee had considered practicable and of paramount importance, to wit: an economical reduction, without injustice, of the pay of the army to meet the increase called for in that of the navy. I ask honorable gentlemen to refer to the documents appended to the supplemental report, No. 467, now on their tables. It will then be found that, instead of any decrease, there is actually an increase to the amount of seventy thousand dollars in the already ample pay of the army. It is true that, by a reference to the report of the quarter master general, a probable decrease of allowances to the estimated amount of thirty thousand dollars was effected; still, however, leaving a balance of increase to the amount of forty thousand dollars in army pay. The committee had, likewise, subsequently become possessed of a report, made by the paymaster general of the army to the Secretary of War, in April, 1826. This report was made to enable the Secretary to judge of the expediency of changing the present mode of compensating officers of the army, and of the effect likely to be produced by substituting a fixed sum of money in lieu of allowances.

This report is dictated by the experience of a sound practical head. It emanates from one of the most distinguished and honorable men of our country, and is believed to put the question of the expediency of army allowances entirely at rest. It is appended to the report of your committee, and a candid perusal of it is respectfully asked of the honorable members of this House. Under all these circumstances, then, the line of conduct to be pursued by your committee was plain and obvious. It was not their intention, nor had it been the intention, it is believed, of Congress, either to increase the pay of the army, or to derange its present efficiency and organization. Your committee, therefore, asked of the House that the bill purporting to equalize the pay of the army and navy might again be recommitted to them; and it was accordingly so ordered. And this, sir, brings me to the bill now under consideration. It is "a bill to regulate the pay of the navy of the United States." For the reasons above stated, and as they appear in the report No. 467, your committee confine themselves exclusively to the subject of naval pay. I now proceed, Mr. Chairman, to explain the general features and principles of the present bill. They are the result of four years' close investigation of the whole subject, and of a general communication with every grade in the service, either personally or by letter. Great pains have been taken, as well by the late honorable Secretary of the Navy as by myself, to distribute it universally, not only among all our home stations, but likewise to send it to all our squadrons abroad; and I am happy to state, sir, that, up to the present day, I have not heard of one single individual, of any grade, who does not give it his most cordial concurrence and support. I may be permitted to hope, sir, that, notwithstanding the very unusual and hasty procedure on the part of my colleague, it will, to a great extent at least, meet with a like concurrence on the part of this House.

It was the endeavor of the committee to establish a principle of justice bearing equally upon all grades—to pay liberally where high responsibilities were incurred—to guard sacredly, by fixed and positive statute, the rights and privileges of all—placing the lowest as well as the highest grades of the service equally beyond the caprice of regulation—to cut off all allowances whatever, except such as are specified, and as it is believed cannot be dispensed with without gross injustice.

The scale of pay is as high as the committee considered themselves authorized to make. They assumed that submitted by the President of the United States himself as the highest point to start from; increasing, however, greatly beyond the scale contained in the same proposal, all the amounts allowed the lower grades. And this was done with the view to make the service a desirable one; to present the inducement to a brave, hardy, and intelligent class of native born American citizens, to devote their lives to a service in which the pecuniary reward was greater than that which they can hope to obtain by their own exertions in the civil marine of the country, after an exposure to much severer toils and to infinitely greater dangers. My colleague, [Mr. Harper,] therefore, does the committee very great injustice when he asserts that we have overlooked the merits and services of the lower grades. And of this a more minute perusal of the details of the bill, in that spirit of candor which distinguishes him, will at once convince him. It will be observed that an increased compensation is allowed to the senior officers of the navy. This is done in compliance with immemorial usage, and with the express terms of the act of 25th February, 1799, the third section of which expressly states, "That whenever any officer, as aforesaid, shall be employed in the command of a squadron on separate service, the allowance of rations to such commanding officer shall be doubled during the continuance of such command, and no longer, except in the case of the commanding officer of the navy, whose allowance, while in service, shall always be at the rate of sixteen rations per day."

The increased compensation, therefore, to the senior officer is in lieu of the double rations which have always been allowed him, and to which he is justly entitled, as well by universal usage, and by every principle of sound discipline, as by law. It is not a privilege granted in favor of any one officer in particular; it is one open to all in succession; allowed before the highly distinguished gentleman who now stands at the head of the list attained that point, and to be retained by his

successor. To annul it now would be to degrade the pride of rank so essential to the discipline of the service; to wound the brave veteran whose long life has been faithfully and laboriously devoted to your service, and to commit a flagrant act of injustice, which I cannot permit myself for a moment to think honorable gentlemen will entertain.

Gentleman will please remark that the discrimination between pay when off and on duty is introduced into the bill in all cases. It has existed by law, to a certain extent, since, I believe, 1806, and, in the language of the Secretary of the Navy, is deemed essentially material to the efficiency of the service.

It will be observed, in reference to all other captains, that, when subjected to similar responsibilities, they are all placed upon an equal footing, and so likewise when relieved from all responsibilities; and this was intended as a compromise, and was so received, to do away with certain difficulties which had existed for some time past between the senior and junior captains. The discriminations of ten and fifteen years, which now exist in the regulations of the service, in defining the relative rank between officers of the army and the navy, have likewise been dropped for the same purpose. That of five years has been retained in the spirit of the original resolution, of which I have spoken, as being the least objectionable in itself. The difference of pay is but trifling. The principle itself is greatly limited, while the compensation allowed, whether over or under five years, far transcends, in both cases, that at present received. The moral effect is believed to be good, while the inducement to continue in the service, even when the highest grades are attained, is enhanced by the certainty of prospective reward. I can assert that, as yet, no complaints have reached me on this subject.

And now as to the masters commandant.

It is admitted on all hands that their pay is degradingly low; it amounts to only $1,174, with an allowance for cabin furniture of $180 per annum additional. Upon this miserable stipend is the commanding officer of one of your finest sloops of war expected to meet all the high responsibilities of his station, and the very great liabilities to expense to which he is necessarily exposed; at the same time he has left behind him a wife and family, altogether dependent upon his pay. These liabilities to expense cannot be avoided.

The custom of our own and of every service requires at the hand of the captain all the courtesies which can be shown, not only to all the officers of his ship, but also to all the foreign agents and strangers with whom he may be brought in contact.

To the officers of his ship he stands in the relation, as it were, of father; his attentions to them spring from a sense of duty. The harmony, good order, and proper training of the young gentlemen under his command, demand that a respectful intercourse should subsist between himself and them.

He is bound, too, by his very orders, to cultivate the most friendly and kind relations with foreign ships of war, of whatever nation, and with the authorities on shore with whom he may come in contact. A regard to the true interests of his country exacts this at his hands, without reference to the expense he may incur. All these duties he faithfully fulfils; with all these demands he honorably complies; and what are the consequences? No officer returns from a cruise who is not from six to twelve months' pay in debt. Is it to be wondered at, then, that many of them are made miserable in their domestic relations? It is certainly time for us to show some regard to them who have done so much for their country, and no longer to permit the brave man who has faced death in every form, to carry in his bosom the corroding canker of debt which he has it not in his power to avoid, nor is able to meet when incurred. With regard to the scale of pay provided for the lieutenants, I have only to say, Mr. Chairman, that it is such as meets with their entire concurrence. It was arranged after a full consultation with a deputation of that grade representing all their brother officers, and was made to coincide entirely with their own views. The principle of discrimination between shore and sea pay is carefully guarded, as of paramount importance, and ample provision is made for the lieutenant commanding. The distinction over ten years is adopted in consequence of the number of valuable officers who have been from eighteen to twenty years in service, and have now reached the middle period of life, encumbered with families. It is intended to operate both as a reward for long and faithful services rendered, and as an inducement to the junior officers to retain their commissions. A higher scale would most willingly have been adopted, but prudence forbade it, and it is hoped no objection may arise to the present.

The same remarks apply to the scale fixed for the grade of surgeons and their assistants. I hold in my hand, sir, the views of these two grades, very fully expressed to me, in the form of a memorial, accompanied by a schedule of proposed pay. This schedule was adhered to as far as it was deemed proper; and, up to this day, no dissenting voice has been heard.

The grade of surgeons, Mr. Chairman, is one of the most responsible in the service, requiring the highest order of moral courage and intellectual attainment. Their duty is equally arduous in war and peace—on shore or at sea. They are exposed equally with their brother officers, to all the toils and dangers of the sea, besides being condemned to a life of severe mental labor and trouble, and to many cares and anxieties peculiar to their stations.

They are put not only to an increased expense of education to prepare themselves for their profession, but they are likewise required, subsequently, to continue that expense in providing themselves with standard works, always costly, and all the periodicals of the day absolutely essential to keep them even with the rapid advances of their daily improving profession.

They enter the service at a late period, in consequence of the length of time indispensable to the acquirement of a professional education. Few of them reach an advanced period of life. I have seen, Mr. Chairman, a calculation by which it appeared that not more than twenty-five per cent. of them ever attained the grade of surgeons of ten years' standing, fifteen per cent. of them that of surgeons of fifteen years' standing, and not eight per cent. that of twenty years' standing. And finally, sir, it must be borne in mind that the graduation of their pay, increased by length of service, is the only promotion to which they can ultimately look. Equity and justice, therefore, both demand that they should be placed upon the most liberal footing of compensation.

The bill provides, further, sir, ample compensation for the two grades of chaplain and schoolmaster. It has been thought that the importance and value of the latter would be greatly enhanced by a denomination of more dignity than that by which he has hitherto been known; and as it is proposed to exact, hereafter, of him duties of the highest character, he is styled in the bill, and will be in future known as, the professor of mathematics. With regard to the remaining grades, sir, every regard has been entertained towards their rights and convenience; their sea and shore pay have, in every instance, been much enhanced. More would have been willingly asked for them, if it had been thought more could have been obtained. As it is, no discontent has as yet been heard.

It has been the anxious desire of the committee, Mr. Chairman, to provide in the most liberal manner for the boatswains, gunners, sailmakers, and carpenters. They rank among the most useful and efficient of the service. Their duties are of the most responsible and important character, and require attentive, sober, upright men for the faithful performance of them. Peculiar skill, experience, and tact, are necessary in them. Their compensation is at least equal to any thing they could hope to earn by their exertions in private life.

Mr. Chairman, I will occupy no more of the time of the committee. Fully prepared, it will give me great pleasure to impart any information it may have been in my power to obtain, and meet any objection that may arise in the discussion likely to ensue.

Permit me, however, here to add that the increased annual expenditure called for by the bill amounts to something over two hundred thousand dollars. Let not honorable gentlemen be startled by this amount. It is not to be weighed a moment in the scale with the equivalent given. It is but a small premium offered for the security of a commerce which extends over the surface of the whole globe, and exceeds two hundred millions of dollars in amount. Withdraw your four squadrons from the foreign stations they now occupy, and what security do you hold for this vast amount of wealth? What becomes of your character as a maritime Power? How will you stand in your foreign relations? What bulwark remains to preserve your free republican institutions from the encroachments of foreign despotism? None, sir; none whatever. Then, sir, let this amount not be considered as idly squandered. Let it rather be viewed, as it ought to be, as a debt of justice, an equivalent rendered for services of incalculable value.

I have thus endeavored, sir, in a spirit of entire candor, to fulfil my duty to the brave men whose rights and interests it has fallen to my lot to advocate, and to the honorable members on this floor.

Whatever may be the fate of this bill, I shall carry with me the consolation that my effort, though humble, has been to effect a great good for my country. The eyes of the whole service are anxiously bent upon the action of this House. Their future hopes and prospects hang upon its decision. I implore honorable gentlemen not to let them fall to the ground, nor to permit them to be blighted.

The subject before us, Mr. Chairman, is one entirely distinct from a political aspect. The navy is the common property of the whole country. Its fame is indissolubly connected with the brightest pages of our history. It is the right arm of our defence. It is an institution most consistent with our form of government, and most congenial to the habits, feelings, and character, of the great mass of our population. I trust, sir, it will so be viewed; and that, standing as we do towards it, in the light of a parent, we will be actuated in our decisions by the broadest and most liberal principles of equity and justice.

Mr. MANN said that he had looked at the report with some considerable care, and with a desire to come to the same conclusion as the committee. He wished to see in the report some reason for the reference of the subject to a select committee, instead of the usual standing committee, but he had found none, and had now to learn if there were any. He remarked on the basis of perfect equality, assumed by the committee, in the pay of the two branches of the service. To this all would assent; but he could not give his assent to the process by which the committee proposed to reach this object. It was proposed to raise the pay of the navy to the standard of the army. It might be well to see what was the present pay of the two branches. He adverted to the documents accompanying the report, to show the present pay of the navy, and stated that the pay of commanders of squadrons was intended to be raised from somewhat more than $2,660 to $5,500. He stated that he knew little of the service, but, after being here one session, he had discovered that no officer of the Government, from the President downwards, was content with the salary now allowed to him by law.

He remarked on the perquisites and privileges and allowances at present granted to the officers of the navy; and before he would vote for the bill, in any shape, he must be informed why it is necessary to give $4,500 or $5,500 to the senior captains, with all the perquisites, when they are absent on leave. If gentlemen would take the trouble to go through the scale of allowances, as estimated by the Departments, under what authority he did not know, they would find that there were no officers in the service of the Government who were not well paid, well fed, and well clothed to boot. He was desirous to bring down the pay of the army to the present pay of the navy, instead of raising the pay of the navy to the standard of the army. He then took a view of the pay and emoluments of the army, beginning with the commanding major general, and going downwards, showing the difference which now existed between the pay and emoluments of the two services. He was willing to give something additional to commanding officers while on foreign stations, because he thought the allowance, in that situation, was at present inadequate.

He moved to strike out the enacting clause of the bill.

The CHAIR decided that the motion was not now in order; but, on reference to the 32d rule, reversed the opinion, and declared the motion in order.

The question being on this motion, after a few words from Mr. WARD, the motion was negatived without a division.

The question then recurring on the motion of Mr. HARPER to amend,

Mr. HARPER expressed his regret that he could not coincide in the opinion of his colleague, [Mr. WATMOUGH,] but must persist in his motion.

Mr. WATMOUGH then vindicated himself and the select committee from the imputation of having interfered with the province of a standing committee of the House, and from all the other allegations of the gentleman from New York, [Mr. MANN,] reiterating what he had before said, that the committee had taken the report of the Department for its basis.

Mr. WAYNE said that, in a bill of such importance as the present, it was to be expected, at the first consideration, there would be differences of opinion. To enable the House to investigate the subject more fully, he moved that the committee rise.

The motion being agreed to, the committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. WATMOUGH,

The House adjourned.

WEDNESDAY, DECEMBER 17.

Among other memorials presented to-day, was one by Mr. REYNOLDS from the Legislature of Illinois, praying that certain grants of lands may be made to individuals, founded upon cultivation, and heads of families, &c.

Upon presenting the above-mentioned memorial, Mr. R. said:

Mr. Speaker, I present to this House a memorial from the General Assembly of the State of Illinois. This memorial contains some cases of ancient settlers in Illinois, praying a confirmation to certain land claims. These persons emigrated to Illinois and became citizens of that country between the years 1780 and 1790. They also improved the soil to such an extent as to entitle

them to an improvement right, so called, of four hundred acres, under the acts and resolves of Congress, and the cession act of the State of Virginia. The Virginia cession act passed in the year 1784, and the last act of Congress passed in 1791—all recognising and confirming those individuals in their possessions and rights, who improved and cultivated the soil. These settlers resided in the country between those dates, and made improvements, and were, as I conceive, entitled to a confirmation of their claims of four hundred acres to each individual.

The Governors of the then Territories, Northwestern and Indiana, who were authorized by various acts of Congress to adjust these claims to land, did not grant to each person named in this memorial, who was by the Governor's own acts entitled to such grant, the full quantity of four hundred acres; and to obtain the balance of the four hundred acres, is the prayer of this memorial, and that of your humble servant. I personally know these claimants, and know them to be entitled, in justice and equity, to the quantity of land to make up to each the four hundred acres.

The memorial was referred.

REMISSION OF DUTIES.

The House resumed the consideration of the following resolution, offered yesterday by Mr. CLAYTON:

Resolved, That the Committee of Ways and Means inquire into the expediency of reporting a law for the purpose of remitting the duties on locomotive engines, railroad car-wheels with rolled iron tires, axles, springs, &c. already imported, or which may hereafter be imported within two years.

The question being on striking out "Committee of Ways and Means," and inserting "Committee on Manufactures"—

Mr. DICKERSON supported the amendment, on the ground that the most important matter of inquiry, embraced in the resolution, was its effect on the internal improvements and the domestic manufactures of the country, and that this, according to the common course of proceeding, was referrible to the Committee on Manufactures.

Mr. MASON said that though the resolution proposed merely an inquiry, yet the question was argued as if it involved the fate of the proposition. He did not think it proper, at this time, to go into the merits of the inquiry. The subject was fully discussed at the last session, and a bill was passed this House, remitting duties on articles imported by companies engaged in internal improvements. He could not see on what ground the reference of the subject to the Committee of Ways and Means was now opposed. At the last session, there was some opposition to a similar measure, but none to the reference of the subject to that committee.

Mr. CLAYTON said he would not trouble the House with any remarks on this subject, but for the confident belief that, if the amendment prevailed, it would defeat his proposition. This House, said Mr. C., is designed to protect all the great interests of the country within its constitutional right; and, preparatory to this, in its organization, it has divided itself into various committees, each of which is to take care of a particular interest; and these committees are so constituted that a majority of each is in favor of the particular interest confided to its care. It will, then, be perceived how important it is to withhold a great general concern from one of these committees, whose particular interest may be invaded. Now, sir, the first great object of the Government is to have a competent revenue to carry on its operations. This matter is committed to the Committee of Ways and Means. Without resources no other interest can prosper. My proposition is to refer to this committee the propriety of reducing the duties on locomotive engines, railroad car-wheels with rolled iron tires, &c. If the Government cannot spare this amount, then my application will be abandoned. But we are told that the object sought by my resolution affects the manufacturing interests of the country, and consequently it ought to be referred to the Committee on Manufactures. To show how unreasonable is this view, let me refer the House to the nature and objects of the committees of this House. There is, besides the committees I have named, one on agriculture. Now, sir, my proposition comes peculiarly from this interest. In the section of country where I live, it costs us almost one-third of our produce to get it to market, and, on the returns, a great deal more—upon that most necessary article of salt we pay 150 per cent. for freight. We are seeking to ameliorate this condition of things by railroad facilities, and the first step towards it is to get relief from the heavy taxes upon the articles enumerated in my resolution. I might, with great propriety, contend that the subject ought to be referred to the Committee of Agriculture, being the interest most concerned; but I am told that will not be right, because that interest is to be benefited; and yet, when I retort that the Committee on Manufactures is equally interested in rejecting the measure, oh! then the argument does not apply.

The agricultural interest, by far the greatest of any in the country—one which, it would seem, ought to challenge the support of every other interest—must, when it comes to this House for its deserved encouragement, knock at the door of the Committee on Manufactures, an interest (I speak of the interest and not of the committee) which would sooner part with its eye-teeth than its profits upon a ten-penny nail; and if that interest is willing to yield the favor, why, forsooth, it will be well and good; if not, it will not receive the attention of this House. And have we come to that, that legislation, in reference to the great agricultural interests of the country, must first seek the smiles of manufactures? Sir, is this right? No, sir, let it go to the Committee of Ways and Means, a proper arbiter between us, and let them report the matter, and we will then battle it out with the manufacturing interest before this House. But no one believes that the Committee on Manufactures will report favorably on the subject. Besides, sir, to show that it is not the proper committee, suppose (which I confess is very improbable) they should report that the duties may be remitted, and it turns out that the Government cannot spare them, does not every one perceive their report would be of no consequence? And does not this prove that the Committee of Ways and Means ought to be first consulted? Sir, if this proposition fails, it will be an express denial of justice to the greatest interest of the country, merely to satisfy the cravings of one much inferior, and will justly incur the reprehension of all concerned in that great interest.

Mr. DENNY was surprised, he said, at the tenor of the remarks which he had heard from the gentleman last up, and from the gentleman from North Carolina, who spoke yesterday. In the cases referred to, of remission of duties, the goods were imported, and the money actually paid into the treasury or secured by bonds. But the proposition before us took a wider range. It was not to remit duties, but to change the tariff, and abolish the duties altogether for two years. Gentlemen would recollect the course of proceeding last year on the memorial from Vermont for increasing the duties on foreign marble imported. It was referred to the Committee on Manufactures. Now the proposition was to reduce duties, and we are urged to send it to the Committee of Ways and Means. The gentleman from Georgia had spoken of the agricultural interest. There was

no memorial from that interest on this subject. It was an isolated proposition from an individual member. The gentleman had remarked, in reference to the friends of the protective system, that they would rather have their eye-teeth drawn out than to submit to the loss of their profit on a ten-penny nail. He might retort the remark, and say that there were gentlemen who would destroy the Union rather than pay the duty on a ten-penny nail.

It was certain that the course of the friends of domestic industry here, and in the country generally, did not justify the charge. The proposition was simply this: to allow the importation of certain articles of British manufacture free of duty, for two years. The question was, whether our manufactures should be forced into unequal competition with the British articles. He hoped the House, by countenancing this proposition, would not, at this moment, bring up the agitating questions relative to the tariff.

Mr. SPEIGHT said, if this was a question relating to manufactures, he should probably agree with the gentleman from Pennsylvania, but he did not consider it as such. This was not the first time we had had the question of jurisdiction raised between the Committee of Ways and Means and the Committee on Manufactures. What is the question? Perhaps, as the gentleman from Georgia suggests, it is more strictly agricultural than any other. That part of the country which he and the gentleman from Georgia represented, labored under great disadvantages from the want of facilities for sending its produce to market. This evil was attempted to be remedied by the construction of railroads. Now, shall we be obliged to buy the home articles for these railroads, or may we buy them where we can get them cheapest? Shall we be sacrificed to promote the interests of the manufacturers? He had heard much said here about the great tariff compromise made two years ago. He was not disposed to touch it, and he was sure it was a sort of compromise which the gentleman from Pennsylvania had every reason to be pleased with, for it injured none of the interests which he was friendly to. But it had been thought proper, in some particulars, and on some occasions, to infringe a little upon that compromise. A bill was reported by Mr. BINNEY, from the Committee of Ways and Means, for the remission of duties on iron prepared for a railway and inclined plane by the Schuylkill Company, and it passed the House. The measure met with no opposition from gentlemen belonging to that part of the country from which the petition came. He referred also to a bill reported by Mr. BINNEY, for the remission of duties on locomotive engines, which passed this House, and failed in the Senate for want of time. He had rarely ever known a proposition to reduce duties to be referred to the Committee on Manufactures.

Mr. STEWART said that this proposition was likely to elicit a general discussion of the tariff question. He should make a motion with a view to ascertain whether the House was disposed to go into the discussion. If the gentleman from North Carolina was dissatisfied with the tariff compromise, and would bring in a bill to repeal it, he would promise to support him, with his whole heart and strength. The manufacturing interests were undergoing a consumption rapidly enough under that compromise, without the adoption of any further measures for their destruction. If the House went into those questions, our time would be exclusively occupied by them through the session. One proposition after another would be made for the reduction of duties on different articles. If the proposition now before us was offered for the relief of the agricultural interest, so might propositions be made for remitting the duties on ploughs and axes, and every agricultural instrument. With a view to test the disposition of the House to go into the question, he moved to lay the resolution on the table.

On this motion, Mr. CLAYTON asked the yeas and nays; which were ordered, and are as follows:

YEAS—Messrs. John Quincy Adams, John Adams, H. Allen, W. Allen, Anthony, Banks, Barber, Barnitz, Baylies, Beaty, Beaumont, Blair, Bockee, Brown, Burd, Burges, Chambers, Chaney, Chilton, W. Clark, Coulter, Cramer, Crockett, Darlington, A. Davis, Denny, Dickson, Dickerson, Evans, E. Everett, H. Everett, Fillmore, Forester, Philo C. Fuller, Gorham, Grennell, H. Hall, Halsey, Hard, Hardin, Hathaway, Hazeltine, Heath, Henderson, Hiester, E. Jackson, Janes, William C. Johnson, Cave Johnson, H. Johnson, Lansing, Thomas Lee, Lyon, Joel K. Mann, Martindale, McIntire, McKennan, McKim, McVean, Miller, Robert Mitchell, Morgan, Muhlenberg, Osgood, Parker, Patterson, D. J. Pearce, Phillips, Pierson, Pope, Potts, Ramsay, Reed, Schenck, Shinn, Slade, Sloane, Smith, Standefer, Steele, Stewart, Francis Thomas, Philemon Thomas, Turner, Tweedy, Van Houten, Vinton, Wagener, Ward, Watmough, Webster, Frederick Whittlesey, Elisha Whittlesey—93.

NAYS—Messrs. J. J. Allen, Chilton Allan, Archer, Barringer, Beale, Bean, Beardsley, Binney, Briggs, Bull, Bunch, Bynum, Cage, Cambreleng, Campbell, Carmichael, Carr, Casey, Chinn, Claiborne, S. Clark, Clay, Clayton, Clowney, Coffee, Connor, Corwin, Crane, Davenport, Day, Deberry, Dickinson, Dunlap, Ewing, Felder, Ferris, Foster, William K. Fuller, Fulton, Gamble, Gholson, Gillet, Gordon, Graham, Grayson, Griffin, Joseph Hall, Thomas H. Hall, Hannegan, Joseph M. Harper, Hawkins, Hawes, Howell, Hubbard, Huntington, Inge, William Jackson, Jarvis, R. M. Johnson, Noadiah Johnson, S. Jones, Kavanagh, Kilgore, King, Kinnard, Lane, Luke Lea, Lewis, Lincoln, Love, Loyall, Abijah Mann, Manning, Mardis, John Y. Mason, Moses Mason, May, McCarty, McComas, McKinley, Mercer, Miner, H. Mitchell, Moore, Murphy, Page, Parks, Peyton, F. Pierce, Pinckney, Polk, Rencher, Reynolds, Robertson, Shepperd, Spangler, Speight, Stoddert, W. Taylor, Thomson, Tompkins, Trumbull, Vance, Wardwell, White, Williams, Wise—107.

So the motion to lay the resolution on the table was negatived.

The question recurring on the adoption of the resolution,

Mr. CHAMBERS contended that the subject was not deserving of consideration as a revenue question. It was its operation on other interests, and chiefly on the manufacturing interest, which would be principally considered. The House would inquire whether the country was supplied, or could be supplied, with American manufactures. If the tariff was to be assailed, notwithstanding the compromise of 1832, in any one particular, it might, under that precedent, be, in like manner, assailed in every item.

Here the debate was arrested by the expiration of the hour allotted to the consideration of resolutions.

PAY OF THE OFFICERS OF THE NAVY.

The House then went into Committee of the Whole on the state of the Union, (Mr. BRIGGS in the chair,) and resumed the consideration of the bill to regulate and equalize the pay of the officers of the navy—the question being on the motion of Mr. HARPER, of Pennsylvania, to strike out $5,500 as the pay of a senior captain, commanding a squadron, and inserting $4,500.

Mr. WATMOUGH rose to express the hope that the motion of his colleague [Mr. HARPER] would not prevail. He confessed that he had not expected opposition from that quarter, and felt assured that, if his colleague [Mr.

HARPER] would but bring his mind to bear upon this matter, with that spirit of candor and good sense which distinguished him, his opposition would cease at once. He confidently trusted that honorable members would enter upon this discussion in a just and liberal spirit. He begged them to recollect that the sums proposed to be allowed to the highest grades of the service were scarce a third of the amount received by those who held corresponding stations in either the British or French navies. He was enabled, by the kindness of the Department, to lay before members the amounts of compensation received in those services, when on foreign duty, with which our own was more immediately brought in contact.

They were as follows:

English Admiral, commanding, - -	$12,965
" Vice do. do. - - -	11,344
" Rear do. do. - - -	9,723
" Commodore of the first class, -	9,723
" Do. of 2d do. from 3,191 to	5,070
And French Admiral, commanding, not established, but formerly, 100,000 francs,	$20,000
Vice Admiral, commanding, - -	8,850
Rear Admiral, - - - -	7,269
Commodore of the first and second classes, from 4,314, to - - - -	4,437

It is true, the lower grades are very inadequately paid; and yet, sir, it is with men paid on this scale that our officers are brought in contact in foreign ports, and are bound to reciprocate the courtesies and civilities of refined life, by every obligation that can be supposed to operate upon men standing in so high a relation to their country and the world. He asked gentlemen to refer to the report now on their tables, in which the select committee had endeavored, and they hoped had succeeded, in making plain to the most inexperienced mind the great embarrassments under which our officers at present labored, and the absolute necessity there was for an increase of compensation. He would not here repeat those arguments.

He recalled to the minds of the committee the toils, and dangers, and privations, and vast responsibilities, these gentlemen were at all times called upon to encounter. Years of absence from all the endearments of domestic and social life, and constant exposure to battle, to disease, and to the perils of the sea. He bade them remember that, while away and liable to such expenses, they had in every instance left their wives and children at home, who were to be maintained and educated in a manner consistent with the stations they held in life. They were surely justly entitled to an amount of compensation that would enable them to lay up something for the winter of life; to save something beyond their actual current expenses. A reference to the documents which the committee have taken great pains to collect, would at once convince gentlemen that their present rate of compensation was altogether inadequate. He begged gentlemen to refer to these statements. He would not unnecessarily occupy the time of the committee by enlarging or amplifying on the merits of the navy during a state of war, or its absolute necessity and utility during peace. Time was too precious, and he had already perhaps said more than enough. He trusted he might be allowed to express the hope that the general principles of the bill would be approved by the House. They had been well matured and considered; and, he was happy to be able to add, had met with the approbation of the Department. He hoped, therefore, the amendment of his colleague would not prevail, and appealed to the good feeling and magnanimity of the committee to sustain the original provisions of the bill.

Mr. W. stated that the bill in no instance decreased the salary of any officer. The pay of the assistant surgeons was regulated, after much deliberation and consultation with many of the most respectable of that grade. It was admitted to be ample. The whole increase proposed by the bill, to the present aggregate amount of pay, was a trifle over two hundred thousand dollars. A great disparity had always existed between the pay of the navy and the army; much greater than was believed to be just or proper. This disparity had sprung from the supposed benefits of the allowance of prize money to the navy during war; an advantage which in fact amounted to but little; as, from the necessity of the case, the prizes, in most cases, were destroyed; or, if preserved, rarely reached a port of safety, in consequence of the vast number of the enemy's cruisers. He earnestly bade gentlemen to remember that, with the exception of two grades, the lieutenants and the surgeons, in which a slight amelioration had been granted within a few years past, no increase whatever, in the pay of the navy, had taken place since its first organization, in the year 1799.

It is true that, in 1814, the President was authorized at his discretion to increase the pay twenty-five per cent. This increase, however, was only extended to those serving on the lakes, and was repealed in 1817. The present value of the navy ration is twenty-five cents. Prior to 1812, it was only twenty cents. With these exceptions, the pay has remained the same since 1799; while that of all your civil officers has been vastly increased, and your army in almost every grade, by pay and allowances, to nearly one hundred per cent. Hitherto the memorials and petitions of our gallant tars have been passed over in most mortifying, if not contemptuous, silence.

He begged he might be distinctly understood. It had neither been his own, nor the intention of his colleague, to depreciate the value nor the services of the army. Upon all this matter the report was ample. He hoped no comparisons nor invidious distinctions would be resorted to in the discussions likely to arise. It was his earnest wish to keep every thing of the kind down, and in this effort he felt confident he would be sustained by the friends of both services on this floor. All he sought was justice for the navy, justice long withheld, tardily taken up, but now he hoped about to be fully accomplished.

Mr. FILLMORE rose to make some inquiries. He understood that the subject, both of the pay of the army and navy, was originally referred to a select committee. That committee reported a bill to equalize and regulate the pay of officers of the army and navy. But the plan of equalization was abandoned, and the regulation of the pay of the army left out of the question. The amendment reported as a substitute for the bill proposes only to regulate the pay of the navy. Now, he would inquire whether the bill did not assume for the regulation of the navy the highest rate of compensation allowed to the army, after adding to it the sum of seventy-two thousand dollars per year, and whether the amendment reported as a substitute did not make a further addition to the pay of the navy of six or seven thousand dollars more?

Mr. WATMOUGH stated it was perfectly true, and he had so stated and explained in his opening speech, that the committee had abandoned the equalization bill, having found the principle utterly impracticable, from the very nature and the difference of circumstances of the two services. It could not be applied without deranging the whole organization and efficiency of the army, by dispensing with all its allowances and emoluments. In the attempt, as has been already stated, the pay of the army was unreasonably, and indeed unequally, increased. This most certainly had not been desired. It was deemed, therefore, proper to leave that branch of the subject at rest. The rate established in the bill now under discussion for the high grades of the service is

that recommended by the Secretaries of the War and Navy Departments, in their reports of the 29th November, 1833, and sanctioned by the President of the United States himself, in his message of the 5th December of the same year. The increased compensation to the senior officer at all times while in service, and to all officers when in command of squadrons, is in strict accordance with the terms of the law long since established, and with the letter of the recommendation of the Department.

Mr. McKENNAN was disposed to pay the officers of the navy, and to pay them well. He would give them an ample sufficiency for the support of their families. But he was not in favor of going too far. The increase of pay proposed was too extravagant. It added about $250,000 to the annual pay of the navy.

Mr. WARD, of New York, said the simple question now before the House was, whether the senior captains commanding squadrons should be paid $5,500 a year, or less. So far as regarded himself, he had come to the decided conclusion that it was not too large an allowance. The House, he believed, would be brought to a similar decision, by adverting to the facts and circumstances of the case. In the first place, he directed their attention to the fact that, from the first organization of the navy to the present time, no addition whatever had been made to its pay, while, in the mean time, the pay of the army had been gradually and liberally increased. The navy, notwithstanding its high character and gallant achievements, had been utterly neglected, while the army was cherished with a willing and liberal hand. Its gallant officers were, indeed, praised, but were chilled by penury, or forced to exhaust, in the maintenance of their rank, their private fortunes. The navy alone, of all our public establishments, had been thus penuriously provided for. Since the organization of our Government, the compensation of nearly all the officers of the civil departments had been increased, from time to time, both on account of the increasing amount of labor and responsibility imposed on them, and the increased expenses of living. He instanced the salaries of the heads of Departments, which at first were fixed at $3,500 a year, and were gradually increased to $6,000. With the increase of the population and wealth of the country, and the consequent increase of the expenses of living, it had become indispensably necessary to enhance the compensation of a large class of our civil officers. There was no reason why the pay of the officers of the navy should not be graduated upon as high a scale as that of the civil officers, and of officers of the army; and the circumstances which had induced the allowance of increased salaries in some cases, applied with stronger force to the navy than to any department of the public service. Was it thought that any officers in the civil service were paid too much? On the contrary, was it not generally considered, and, indeed, known, that their salaries were totally inadequate to their necessary expenses? Were, then, the expenses of naval officers so much smaller than those of others, that they require no increase of pay? Or will it be said that we have proposed, in this bill, too high a scale of compensation? Was it not a matter of notoriety, he asked, that the expenses of our naval officers—those expenses which were peculiarly incident to their profession—had greatly increased of late years? It was a fact that their expenses, while abroad, had been increased, as well as their expenses, and those of their families, at home. Looking, as the House were bound to do, to the rate of compensation allowed to naval officers in the service of foreign nations, they would find that, in comparison with it, what we allowed to officers of like grade, in our own service, was a mere pittance. The English and French naval service were paid very liberally—their admirals receiving eight or ten thousand, and even, as had been stated by the honorable gentleman from Pennsylvania, [Mr. Watmough,] in one instance, eighteen thousand dollars a year. Here, on the contrary, though the United States was out of debt, and was in the enjoyment of unparalleled prosperity, we hesitated to allow to the officers of the best appointed, and, for its extent, the most efficient navy in the world, the much smaller rate of pay proposed in this bill. He trusted that the time had come for extending justice, if not liberality, to the navy, and that we should place it upon as good a footing, in point of compensation, as other branches of the public service. When we recollect that the officers in command, on foreign stations, had, in fact, two establishments to maintain, one at home and another abroad, it would be conceded that, even with the increase of pay now proposed, they could save nothing out of their pay, much less acquire any property from it, for an ultimate provision for their families.

The expenses of naval officers, it should be borne in mind, were often of a peculiar character, one in which the character of the American nation itself was in some degree involved. They represented their country abroad; and he might venture to say that the poorest citizen throughout the land could not but feel himself degraded, ay, humbled to the dust, if he was to learn that any of our gallant officers, whilst stationed in foreign ports, were unable to reciprocate with the officers of foreign nations, or the functionaries of foreign Governments, the usual courtesies and civilities of life. These considerations rendered it proper that, in our naval intercourse with foreign Powers, our officers should be put on a footing, in point of means, with theirs. The captain commanding an American squadron is obliged, by courtesy, by a proper regard for his own character and the national honor, to return the civilities tendered to him in foreign ports, or from the officers of foreign fleets; especially if we consider that such civilities, like salutes, are not tendered so much to the individual officer as to the flag under which he sails, and the nation which he represents.

Having thus appealed to the national feelings of gentlemen in favor of this bill, Mr. W. said he would address himself to their sympathies as individuals. The officers of our navy have feelings and dispositions in common with other men. They seek, like other men, the retirement and happiness of domestic life, and feel, like other men, the force of domestic ties and obligations. He thought that, when they had arrived at a certain age and rank, they were entitled to receive such a compensation as would enable them to marry, without the imminent peril of starvation before their eyes, and to witness the first smile of their first born, without the stinging consciousness that it would inherit only poverty and helplessness. He would enable them to go into battle, or to visit the most distant seas, with the consoling reflection that their wives and children, whom they leave behind them, were in the possession of the ordinary comforts of life. Confiding in the justice and liberality of their country, they would be better officers and better citizens too. He believed in the obligations of gratitude; not that gratitude which consisted in a keen perception of obligations to come, but of those which are past. Heroes were not to be created by reducing men to despair, and the love of country was the best foundation for the character of a true soldier. To those gentlemen who might be indisposed to admit the force of these considerations, he would present another argument in support of the claims of the navy to equal pay and emoluments with the army. He would rest their claims upon the great basis of public justice, of that justice without which neither Governments nor society, in any form, could exist. Was there a single

reason, he asked, why the navy should not be put on an equal footing with the army, as to rank, pay, and every other advantage? Were their services of inferior character and value? Was their present employment less laborious or hazardous, or less important to the interest of the nation? Was there any thing in the past, present, or future, that indicated any reason, or in the remotest degree justified, the incomprehensible preference now exhibited towards the army over the navy? No. Equal in character and in services, it was equally entitled to the justice and generosity of the country.

The anticipations of the future usefulness of the navy were of a character highly grateful to our national pride. Consonant as our naval force was with the spirit of our free institutions, and with the character and habits of the American people, its fame could never become the object of public jealousy. From it the remotest danger could never be apprehended to civil liberty. As a commercial nation, second to but one in the world, we cover every ocean with our canvass—and our navy, small as it is, already affords protection to our property and citizens in the most distant parts of the world. In short, he said, the navy was the right arm of our national defence, as terrible to the enemies of our country as it was harmless to the country itself. Sir, (said Mr. W.,) I apprehend no danger from our present military force, but it would be almost impertinent in me to remind the House that there have been thousands of instances in which triumphant armies have become the scourge of their country, and the chosen and willing instruments of its tyrants.

If this bill should become a law, as Mr. W. trusted, he said, that it would, it would soothe and gratify the feelings of many old and meritorious officers, all of whom have participated in the brilliant victories of the lake and the ocean, and serve as a stimulus to the patriotic efforts of those who are but commencing their professional career. True, it was not for the pay and emoluments of the service that our youthful and aspiring sons entered the navy. They were actuated by a nobler spirit—love of country and of fame. He was free to admit that the pay ought not to be so high as to make that a main inducement. But there was no man who served his country faithfully, either in our gallant navy, or in our no less gallant army, that received a full compensation for such service in money; for he hazards that for his country which is inestimably dearer to him than the emoluments of service.

In conclusion, Mr. W. alluded to the views taken of this subject by the Secretary of the Navy. That able and distinguished officer had, in his report, spoken freely in reference to the inadequate pay of the officers of the navy, and earnestly recommended that something should be done by Congress in their behalf. He says:

"I can add nothing to what has been frequently urged in favor of a peace establishment for our navy; but must be permitted to state, what has often before been stated, that the compensation of the commanders of our ships on foreign stations is altogether inadequate to an honorable discharge of their duties. They are compelled to incur expenses beyond the amount of their pay and rations, or decline to receive and return civilities uniformly offered to them on such stations, and upon which our friendly relations with foreign nations may, in some degree, depend.

"The course pursued by our officers, under such circumstances, has been such as national as well as professional pride has dictated; and, of course, they frequently return from their tours of service deeply in debt—one evil consequence of which is, that it adds to the inducements of our officers to prefer service on our stations to service at sea; whereas, the pecuniary consideration should always be in favor of the sea service."

Mr. W. hoped that it would be unnecessary to press any further argument upon the House in favor of this bill. The committee to which the subject had been referred had carefully and fully considered the measure proposed; the Secretary of the Navy had approved of it; and even the Executive had, in his message, alluded to the subject as one demanding legislative action. He therefore trusted that the motion to amend would be rejected, and that we should go on through the bill, item by item, and report it to the House.

Mr. CONNOR said: I am for paying the officers of both the army and the navy well. They fight well—let us pay them well. I am for giving them an equitable, a liberal compensation; and I would also be willing they should be enabled to lay up something for their old age. But (said Mr. C.) let us not go too far nor too fast. He thought this was too great a lift at one movement. To increase a salary, at once, from $2,500 to $5,500, was more than he could sanction. He was constrained to go for the amendment.

Mr. SUTHERLAND was, he said, as much an advocate of the navy as the gentleman before him, [Mr. WARD.] But he would say that the bill was not prepared in the manner that it ought to have been for this House. He stood here the advocate of a class of men who had added as much as any other to the glory and efficiency of the navy; he meant the poor gunners, carpenters, sailmakers, boatswains, and riggers. The men who hold the poor office of gunners, an office of some importance in time of war, the men of smoke and fire, are, by this bill, to be reduced to $300 dollars a year, when absent on leave, or waiting orders; whereas, at present, they receive $400, or more.

We could not go to war without these men, and he would not go for the bill unless they were taken care of. He would bring them up, though not by pulling others down. But he would pull down the pay of the highest officer in the list to 4,000, or even 3,000 dollars, rather than to curtail the pay of those men while they were at home with their families.

Mr. WATMOUGH expressed himself not a little amused at the sudden outpourings of valor on the part of the member from Pennsylvania. However much more valiant the member might wish to have himself considered, Mr. W. did not mean to permit himself to be outdone by the member, in a feeling of the most friendly regard for these men of smoke and fire. He hoped he knew too well how to appreciate the worth and valor of that class, who, in the words of a distinguished soldier, had undergone the baptism of fire. It had been his fortune in the course of his life to witness the fidelity of such men, and he had not intended, nor did he mean to undervalue or forget their services. The member had jumped before he looked. For the fact is that the bill actually proposed an increase of pay to this class of men, while on duty, of nearly 100 per cent. This class of officers are seldom absent on leave, or waiting orders; it is not intended they should be. The great object of the bill with regard to them, as indeed with regard to all others, is to offer every inducement to seek service, to encourage them to remain on duty. It is therefore proposed to give them, according to the size of the ship, between 590 and 840 dollars pay. The whole amount they are now entitled to, when at sea, is only $422 50. At yards their pay, by means of allowances, which the bill does not propose to deprive them of entirely, is somewhat enhanced.

But, on the whole, no grade has been more carefully guarded. It was the earnest desire of himself and his colleagues on the committee to attach such compensation to the services of these men as would operate as an inducement to a valuable and highly intelligent body of native born citizens, known to exist among us, to enter

the service, and devote themselves to it for life. New England abounds with this class. The pay now offered, as has been already stated, is more, or at least quite as much, as can be earned, one year with another, in the civil marine, with the additional inducement of protection to their widows in case of death, while in the prosecution of their duties, under the provisions of the naval pension fund system. Mr. W. remarked that he had been induced to say more on this subject than he could have supposed necessary, in consequence of the attempt which had been made to get up a prejudice against the bill by a charge, most ignorantly, if not wantonly, made, of neglect on his part towards this highly useful and generally admirable class of men. He hoped he had convinced honorable gentlemen of the injustice of this charge; and, as he believed the principle assumed in fixing these amounts of compensation was a sound and judicious one, he hoped the committee would not amend or alter them.

Mr. PARKER hoped we should settle the account of the gunners when we came to them. He was opposed to the whole of the bill, from the fifth to the tenth line inclusive, and he moved to strike it out, for the reason that he thought it right that all the captains should be put on the same pay when performing the same duty.

The CHAIR decided that the motion was not, at present, in order.

Mr. FILLMORE remarked that the amount of compensation proposed to be given to officers in command was about $15 a day. If the sum was reduced to $4,500, it would be $12 50 a day, besides shore allowance, which was a higher salary than almost any civil officer of the Government received.

Mr. WARD suggested that the Speaker of the House received $16 a day.

The question being then taken on the motion of Mr. HARPER to strike out 5,500 and insert $4,500, it was determined in the affirmative: Ninety to fifty-five.

Mr. WATMOUGH then stated that, as the Committee of the Whole had determined the question of the rate of the pay of the commanding officers, he should offer an amendment to the bill, graduating the pay of all the other officers according to that which was thus fixed by the committee; and he offered the amendment accordingly.

Mr. WISE laid on the table an amendment, which he said he would offer to the bill, and which was read and ordered to be printed.

On motion of Mr. SPEIGHT, the committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. WATMOUGH,

The House then adjourned.

THURSDAY, DECEMBER 18.

ADMINISTERING OF OATHS.

Among the bills reported to-day was one by Mr. CLAY, from the Committee on Private Land Claims, to authorize registers and receivers of land offices to administer oaths, in connexion with the entry of lands.

The bill was read twice; when

Mr. LANE said that it required an amendment providing that the oaths should be administered without any fee; their salaries being high enough already. He also stated that the registers and receivers with whom he had conversed were willing to undertake the duty.

After some conversation between Messrs. LANE, PARKER, and CLAY, the bill was postponed to Monday next, and made the order for that day.

REMISSION OF DUTIES.

The House resumed the consideration of the following resolution, submitted by Mr. CLAYTON on the 16th instant:

Resolved, That the Committee of Ways and Means inquire into the expediency of reporting a law for the purpose of remitting the duties on locomotive engines, railroad car-wheels with rolled iron tires, axles, springs, &c., already imported, or which may hereafter be imported within two years.

The question being on striking out "Committee of Ways and Means," and inserting "Committee on Manufactures,"

Mr. CHAMBERS, of Pennsylvania, addressed the House. It was to make but a few remarks, he said, that he addressed the House yesterday, on the subject of the resolution then and now before the House for reference. The question being one of reference merely, he should not now occupy time by discussing the merits, further than to show the interests involved. As the object of the resolution was to obtain a drawback of duties on the various articles of iron used in the construction of railroad cars and locomotive engines, as well as to exempt them from duties for two years hereafter, it was one affecting most materially the manufacturing interests of this country. The exemption, said Mr. C., is not proposed to be confined to those various articles of iron imported for, and actually used by, a railroad company, but admits all of the description imported, or that may be imported for two years. As a revenue question, it is to the nation a small concern, and one that the House, in that character, will be competent to consider and decide, in whatever shape it may be presented. The importer who has introduced the article has no right to complain of those duties which have been imposed by a law, which, as a compromise of conflicting interests, was to continue at least for the term provided. The manufacturers of iron, in its various forms, and which, in several of the States, give employment to an immense capital, as well as to an incalculable amount of human labor depending on them for subsistence, are assailed in their interests and promised protection by the proposed resolution. As a subject affecting those interests so materially, what committee so appropriate as the one having charge of those interests? That committee ought to direct its attention to the tariff compromise and compact. Also, to ascertain how far the American manufacturer furnishes, and can furnish, the various articles of iron enumerated; and to what extent the iron introduced by the description given can be used for other purposes, interfering with other articles of American iron manufacture. When it is necessary that the House should be put in possession of facts on any question calling for legislation, it is sent to a committee more competent to obtain the information, and to consider it, than the House can, from its number, and in its collective capacity, be able to effect. All the information connected with this branch of the iron manufacture should be in possession of the committee, who would consider and report on the subject, and should be furnished to the House to aid its legislation. It is therefore proper and reasonable that the subject should be referred to the Committee on Manufactures, whose duties lead them to the information wanted. If this is not a proper subject for the attention and consideration of the Committee on Manufactures, I do not know what is, or for what such a committee is raised at this time. It was alleged by the gentleman from North Carolina, [Mr. SPEIGHT,] that the interests of his constituents, which were agricultural, were interested in the proposed reduction, and that those interests were in opposition to the interests of the constituents of my colleague, [Mr. DENNY.] If they are, it is remotely, and the act and compromise of 1832 does not allow us now to weigh or measure these conflicting interests. So far as the interests of the agriculturist and the manufacturer did conflict, they were then weighed in the balance and adjusted; and unde r

that compromise it must rest. The gentleman also disclaims any intention to impugn or impair the tariff compact of 1832; and yet, is it not the object and tendency of the resolution thus to change the provisions and affect the protection of that act? The gentleman will not wage war upon the entire act by one assault, but he will, by attacking its different parts in detail, and, by piecemeal, destroy its provisions.

The very resolution under consideration calls for a repeal of some of the very provisions of that act, and to withdraw the protection, so far as it was afforded to the American manufacturer, of any of the articles enumerated; and yet we are told it is not intended to disturb the interests provided for in the compromise and tariff of 1832.

If it be no violation of the compact and public faith to those who have embarked their capital in the manufacture of iron, relying on the protection of this law, to have it withdrawn, why may not every other manufacturing interest be assailed in the same manner? A certain portion of the community may conceive that their interests would be promoted by a repeal of the duties on woollens imported, and to be imported, for a certain time; and they or their friends come to this House with a memorial or resolution on the subject. Another portion may be of opinion that their interests require a repeal of the duties on cottons, and they present their memorial or resolution on the subject. Others, dissatisfied with the duty on sugars, may come, and, by their memorial or resolution, ask a repeal of the duties for the protection of American sugar. In this manner, and by selecting the several branches of American manufactures, each one may be assailed separately on this floor. The advocates of these conflicting interests may then, as now, tell us that the interests involved are those of revenue only, and that they are not a proper subject for the attention of the Committee on Manufactures; but, as a mere matter of revenue, they should be sent to the Committee of Ways and Means. If opposition should be made in behalf of the American manufacturer, as affecting his interests, and a reference required to the Committee on Manufactures, it would be replied that this House had, by precedent, considered it merely an affair of revenue, and as not designed to impugn the tariff provisions and protection of the act of 1832. Is this House prepared to adopt such arguments as sound, and act upon them as such? By such a course of proceeding, the manufacturing industry and capital of the country may be destroyed, and the Committee on Manufactures in this House may be dispensed with. If the manufacturer, or the friends of that interest, should in this House ask an increase of duties on the articles of iron enumerated in the resolution, would it not at first blush be pronounced a palpable attempt to infringe the tariff compromise; and where, I would ask, does the attempt to exempt certain articles from duties imposed by that law differ in its character? It was alleged by the gentleman from Virginia [Mr. MASON] that to allow the drawback would not affect the manufacturer, as the articles are imported. This is a proper subject for the inquiry of the Committee on Manufactures. The articles enumerated are to be exempted not only for the benefit of a railroad company, but for all others who have imported the articles, and have them for sale in the market. There is in this an advantage given to foreign capital and labor, not only over American, but in violation of protection promised under the faith and law of Congress.

It has been alleged that the articles are not manufactured in the United States. I am informed that they are, to a considerable extent. There is no great art in the manufacture of many of the articles enumerated: wheels, axles, tires, &c. It will be for the Committee on Manufactures to inquire whether iron would not be imported in these forms, to be used for other purposes. The wheels and axles are plain castings, not requiring much skill in the manufacture, and consuming a large quantity of iron. But it is assigned as a reason for the reference to the Committee of Ways and Means, that such has been the former disposition of like subjects before the House on former occasions. These were the cases of the Schuylkill Railroad Company, and the Petersburg Railroad Company, before the House at the last session.

Though precedents in legislation are not of high authority, and especially when they are of recent origin, without the sanction of time, consideration, and repetition, yet, if I am not mistaken, the cases referred to were cases of much more limited inquiry. They were confined to two cases where the article to be exempted had been imported some time before, and were in use, for the railroad company. If the House acted inconsiderately in this, it is time that the practice should be corrected, before a succession of precedents will give it authority. They were an entering wedge, which it seems is to be followed by ones of larger dimensions. What was done then is now assigned as a precedent for going further.

It is well known in this House that there was much complaint last session of the reference to the Committee of Ways and Means of subjects that belonged more properly to other committees. It is, I presume, forgotten by few that, at that session, though we had a standing Committee on the Judiciary, yet it was referred to the Committee of Ways and Means to report to this House on the judicial construction of certain acts of Congress in reference to pension agents, and their authority under those laws; and that we had from that committee, in the form of a report, an elaborate law argument on the subject. I do not suppose, and would not say, that the present Committee of Ways and Means are so unfriendly to the manufacturing interest as to be regardless of it, if this subject were submitted to them. I have too much respect for the members who compose that committee to express or entertain such an opinion. But as the consideration of the interests affected pertain more to the duties of another standing committee of high character, having in it gentlemen distinguished for their attainments, industry, and probity, I am of opinion that the reference should be to the Committee on Manufactures.

If committees are, under the rules of this House, raised in reference to particular subjects and interests, their jurisdiction should be maintained, and if any of these committees are to be dispensed with, I trust it is not the Committee on Manufactures.

Mr. CAMBRELENG said the House had been for three or four days debating the question whether this resolution should be referred to the Committee of Ways and Means or on Manufactures, and, by degrees, they were getting into a discussion of the tariff. Much of what the gentleman from Pennsylvania [Mr. CHAMBERS] had said would be very proper if we were about to adopt or reject the resolution; but it is merely one of inquiry, and the question is to what committee that inquiry shall be submitted. All questions relating to remission or exemption from duty had been uniformly submitted to the Committee of Ways and Means; and if they were now about to be transferred to another committee, without intending to lessen the importance of the manufacturing interest, he thought the commerce, agriculture, and internal improvements of the country, much more deeply interested in the question of facilitating internal communication. He concurred with the gentleman from Pennsylvania, that the tariff compromise ought not to be disturbed. He was, therefore, surprised

to find an attempt now made to go back to the protecting system, when the very object of the compromise bill was to establish a system of revenue duties, and to restore the jurisdiction over the subject to the Committee of Ways and Means. As to the ability of our manufacturers to supply rails and locomotive engines, the gentleman from Pennsylvania must recollect that even his own State, behind none for its devotion to the manufacturing interest, was compelled to import two thousand tons of railroad iron. Were we to depend on a domestic supply, you might graduate a road to the Alleganies before you could procure rails or locomotives to put the first thirty miles in operation. Had the policy so strenuously contended for by some gentlemen for some years back been adopted, and the importation of rails and locomotives obstructed, it would have thrown the internal improvements of the country five years in the rear of similar improvements abroad. Whether locomotive engines should be free from duty ought not to depend on the private interest of the railroad proprietor or the manufacturer. On that ground, it ought to be rejected; but we had nothing to do with their particular interests; the question rested on more elevated ground —on a policy which was as old as the constitution itself— the wise policy of removing every obstruction to the introduction into our country of the improvements made abroad; of allowing the importation of models of art and books of instruction; of encouraging, not by restrictions on, but by relieving from taxation, those objects of modern discovery which tended to our improvement in arts and sciences, or to better the condition, and to the universal advantage of the country. It was only on that ground that the measure under consideration could be defended. He had, at the origin of this new improvement, advocated its free and immediate introduction into the country; and we had then adopted the policy. We were not now, however, called upon to decide on the propriety of adopting the measure proposed, or of continuing the policy of admitting these engines free of duty; but simply to determine whether the inquiry should be sent to the proper committee. That committee he believed to be the one charged with the revenue and general interests of the country, and not that which guarded the interests of any one particular branch of industry.

Mr. JACKSON said he had uniformly been, and still was, an advocate of the American system, and highly approved of the encouragement of American industry and enterprise by the continuance of a judicious tariff. But, as his name stood among the nays on the question taken yesterday in relation to the resolution now under consideration, in opposition to many of the leading supporters of that system, there seemed to be a necessity for his offering to the House, in a few words, the facts and reasons which induced his vote.

In the first place, he considered the construction of railroads, in any and every part of the Union where they have been or may be introduced, a species of American industry and enterprise as well worthy of protection and encouragement as any other article of American production which had ever been favored by a protective tariff, and, except in a very few situations, one that required this encouragement much more than any other. And, in the second place, because the remission of the duty on locomotive engines would not, in his opinion, cause the importation of one additional engine for two years from this time, which is the time to which the operation of this resolution is limited. With regard to the first of these positions he would say nothing, because the facts and reasons which sustain it belong rather to the main question than to the one now under consideration. If the second position was sustained, that is, if the adoption of this resolution will not injuriously affect the producers of iron or the manufacturers of engines, the only interest to be affected by it is that of the revenue; and it is on all hands agreed that any propositions touching the finances of the country should go to the Committee of Ways and Means.

The evidence that English engines are not now interfering with the American manufacturer is found in the fact that those establishments in this country which are producing locomotive engines, such as can be depended upon, are not able to furnish any thing like a full supply for the railroads now in operation; and the great number of railroads now in the progress of construction leave no just ground to hope that they will be able to supply the demand for two years to come. Another fact, quite conclusive on this subject, is, that the English engines are not now imported so cheap, by more than the amount of the duty, as they can be produced in this country, and, of course, cannot come into injurious competition with the home manufacturer, even if admitted free of duty. As to the fact of the inability of the American manufacturers to supply the demand, Mr. J. said he knew, from his own experience, that the railroad corporations in Massachusetts had found difficulty, and were not now sufficiently supplied with engines, nor did he believe that they could supply themselves except by importation.

The directors of the Baltimore and Ohio Railroad Company were satisfied that economy required that steam should be substituted for horse power more than a year ago, and determined to place upon their railroad eight or ten engines. Owing to the peculiar construction of that road, the English engine is not adapted to it; and the company, being confined to the use of the American manufacture exclusively, have, as yet, been able to put in operation only three or four engines, probably not a fourth part of the number necessary for the accommodation of the business of that road.

The Pennsylvania canal commissioners, in their last annual report, say that "Immediately after the passage of the act of the 15th April last, authorizing the canal commissioners to place locomotive engines on the railway, directions were given to the superintendent to procure, if possible, fifteen for the use of the Columbia railroad. Two have been procured and placed on the road. From the present prospect of a large increase of business on the Pennsylvania improvements, the board believe it will require from twenty to twenty-five engines to accommodate the trade and travelling next season, and that this number must be annually increased for several years to come. That a greater number has not been contracted for, since the passage of the act, than is now engaged, was owing to the difficulty of procuring them in this country, and the want of funds."

From these facts, Mr. J. considered it perfectly conclusive that the manufacturers cannot now furnish these engines in sufficient number, nor be expected to do so for two years to come. The constructors of these roads, therefore, must either use horse power, which has been practically demonstrated to be at least thirty per cent. dearer than steam, import English engines, whether taxed with a duty or not, or forego a part of the benefits which their railroads are capable of imparting, and which their immense outlay justly entitles them to receive. The cost of these railroads, say twenty, thirty, forty, and even fifty thousand dollars per mile, is too great an amount to lie idle, or partially so, without bringing a loss of interest upon their owners, far greater than the amount of duties on the engines necessary for the full employment of these roads; and consequently it may be reasonably expected that very nearly the same number of engines will be imported for the next two years, whether your duties are remitted or continued. And if imported, the imposition of a duty, or their free admission, can neither

benefit nor injure the producer of iron or the manufacturer of engines. This description of manufacture rests upon a different basis from that of most others which have been protected. The reasons which have rendered protection duties necessary on other articles are found in the fact that the British manufacturers have had longer experience, greater amount of business, more ample capital, and more skilful workmen. All this has made it difficult, if not impossible, for the establishments of this country to compete successfully with them but by the aid of our Government. Not so with regard to the locomotive. It is as new, or nearly so, in that country as our own. Our mechanics in this branch of manufacture are as skilful as theirs—have had nearly as much experience—in five years from this time will have more, and will certainly beat them. For these reasons, he considered the resolution as not infringing upon the manufacturing interest at all; and consequently the resolution ought not to be committed to the Committee on Manufactures. If any doubt exists as to this species of American industry and enterprise being worthy of encouragement, a more proper committee would be that on Roads and Canals; but believing it to be a revenue question merely, I hope it will go to the Committee of Ways and Means; and when this committee report a bill, as I have no doubt they will do, it will then be in order to discuss the question upon its own merits; and I am much mistaken if we are not able to show most satisfactorily that the settlement of the great tariff question in 1832 had no reference to locomotive engines, and that nothing could have been further from the spirit and intention of that compromise than the taxing of these engines for the encouragement of the producers of iron to double the amount of the value of the iron used in their construction, either in England or the United States. Mr. J. said he had no disposition to disturb this famous compromise, nor did he believe that the adoption of this resolution would have the slightest tendency to do so.

Mr. MILLER had yesterday, he said, some doubt how to vote on this question, and if he had still doubted to which committee the subject ought to go, the remarks of the gentleman last up would satisfy him that it ought to go to the Committee on Manufactures. The object he took to be to inquire whether the articles are made, and to what extent, at what price, and of what quality they are made in this country. And that was an inquiry which belonged exclusively and particularly to the Committee on Manufactures.

Mr. EWING rose to address the House, but, after saying a few words, yielded the floor to

Mr. WATMOUGH, on whose motion, the hour having expired, the House proceeded to the orders of the day.

PAY OF THE OFFICERS OF THE NAVY.

The House went into Committee of the Whole on the state of the Union, (Mr. BRIGGS in the chair,) and resumed the consideration of the bill to regulate and equalize the pay of the officers of the navy—the question being on the amendment yesterday submitted by Mr. WATMOUGH, as follows:

"The senior captain, when commanding a squadron, four thousand five hundred dollars; when on other duty, four thousand dollars; when on leave, or waiting orders, three thousand five hundred dollars. All other captains, when commanding squadrons in chief, four thousand five hundred dollars; when commanding squadrons, and under the command of a superior officer, or when acting as navy commissioners, four thousand dollars. When of five years standing, and commanding vessels for sea service or navy yards, coast stations, or acting as captain of a fleet, three thousand five hundred dollars; when on other duty, three thousand dollars; when on leave or waiting orders, two thousand five hundred dollars. When under five years, and commanding vessels for sea service, or navy yards, coast stations, or acting as captain of a fleet, three thousand two hundred and fifty dollars; when on other duty, two thousand eight hundred dollars; when on leave of absence, or waiting orders, two thousand five hundred dollars."

Mr. SPEIGHT objected to the policy of bringing down the pay of the army to the standard of the navy. He considered a well-organized navy the great bulwark of our liberties, and, as such, deserving of the highest consideration on the part of the Government. He asked if any gentleman regarded the present pay of the navy sufficient to induce gentlemen to leave their families, and brave the perils and privations incident to the service? Complimenting the gentleman from Pennsylvania for the reflection and industry he had devoted to the subject, he could not, at the same time, but think that his proposition placed the pay somewhat higher than it should be. He himself preferred the proposition of the gentleman from Virginia, [Mr. WISE,] and should vote for it. He deprecated a protracted debate, and suggested the propriety of taking up the bill by sections, and disposing of each in turn.

Mr. WATMOUGH expressed a strong desire to have the bill gone through to-day, and reported to the House. He would not take up the time of the House with further remarks, but would entreat the House to vote on the question, bringing to the decision that spirit of candor, and fairness, and disinterestedness, free from every political feeling, which was so desirable.

Mr. WISE moved to strike out the amendment, and insert the words,

"Captains, when waiting orders, three thousand dollars; when on duty, three thousand seven hundred and fifty dollars; when in command of a squadron, four thousand five hundred dollars."

Mr. W. explained, in reply to a suggestion from the gentleman from North Carolina, [Mr. SPEIGHT,] stating that a main feature in his amendment was the abolition of the difference on account of seniority.

Mr. REED intimated that if we have a fleet there must be a commander of that fleet, whether an admiral or a captain, and his pay ought to be superior to that of the captain of a single vessel.

Mr. WATMOUGH, reminding the House that this measure had been but recently introduced into the House, expressed regret that more weight was not given to it. He called on the House to stand by the old officers of the navy, and not to withdraw from them in the decline of life that compensation which was their due. He had spoken with the conqueror of the Guerriere, and those who fought at Tripoli, and had heard no such sentiments from them. He hoped no such decision would be made as would affect the moral character and efficiency of the navy. He thought the gentleman from Virginia had taken a limited view of the subject, and he hoped that his amendment would not prevail. He desired only to make as perfect as possible a service which had been justly appreciated for its intimate connexion with the existence of our political freedom, by his friend from North Carolina, [Mr. SPEIGHT.]

Mr. WISE discarded any feeling like unfriendliness to the bill. His propositions had been made after a conference with meritorious officers of the navy. He stated that, when an officer reached the rank of captain, he was supposed to be fully competent to the performance of all the duties of the station, and by making distinctions ambition was depressed, and the zeal of those individuals was damped. On the principle of seniority, the most incompetent officers may be placed in the most responsible stations. He was willing to give the full amount of appropriation required by the gentleman from Pennsylvania, but he desired to destroy the

difference of seniority. He did not wish to see gallant young captains commanded by old officers, who, although they might have fought the battles of their country, were too infirm to fight them again. He looked to the real efficiency of the navy, and hoped that his amendment would be agreed to.

Some conversation here took place between Mr. HARPER, Mr. WISE, and Mr. SPEIGHT, on a question of order, as to amendment; but it terminated without any change of course.

In reply to a question from Mr. SPEIGHT,

Mr. WATMOUGH read a section from the act of 1799, and a resolution of 1776, to show that distinctions had been made in favor of senior officers. The regulations of 1818 recognise the same principle. If the principle were now changed, that hope of promotion which acted as so efficient a stimulus to gallant men would be destroyed. He also adduced evidence from his own amendment of his desire to give equal privileges where there was an equality of responsibility.

Mr. WISE construed the laws, cited by the gentleman from Pennsylvania, as militating against his argument, as they did not recognise the principle of seniority. There was also a fallacy in the argument of the gentleman concerning promotion. The highest grade in the service was captain, and he who had reached it could not attain any higher rank.

Mr. HARPER referred to the difference between the foreign service and our own, to show that distinctions were considered necessary by the European Governments. He expressed his intention to vote for the amendment of his colleague, [Mr. WATMOUGH,] in preference to that now under discussion.

Mr. MANN gave credit to the chairman of the committee for his industry in pursuing this investigation. He then recited the history of the proceedings which had resulted in the report of this bill, and also the changes which had taken place in the course and form of the bill itself; and also referred to the various arguments which had been brought forward in the course of the discussion. Although the chairman of the committee considered that something more than dollars and cents was involved in this bill, those most interested would consider it as a mere question of dollars and cents. He avowed himself to be friendly to the navy, but was opposed to the odious distinction of seniority, and in favor of the amendment of the gentleman from Virginia, which abolished it. He read a statement of the pay at present allowed to the oldest captains and navy commissioners, and asked *if the* incomes of many gentlemen on that floor equalled it?

Mr. REED considered it important to look to what men were obliged to expend, rather than what they received. On this subject he would read an extract from a report of the Secretary of the Navy, an authority which he hoped the gentleman from New York would respect. Mr. R. then read the extract, and argued in favor of the only distinction which could be made between the junior captain, whose responsibility was confined to a ship, and the senior, whose responsibility extended to a fleet, by means of pay. He quoted a few words from the authority of the President in favor of a distinction.

Mr. PEARCE inferred the hostility of the gentleman from New York to any allowance, from the fact of his motion, a day or two since, to strike out the enacting clause of the bill. If the chairman of the committee could not get all he desired, considering the present temper of the House, it would be glory enough for him if he could obtain any thing. He looked upon the senior captains as standing on the topmost round of the ladder, as having gained all the laurels which they could gain, and that it was incumbent on the House now to look to the junior classes. He was in favor of the bill, because it made a provision for the wives and families of the officers, in case of death in the service or otherwise. Whatever, therefore, was taken from the officers in pay, was given back to them in the form of a gratuity to their families, in the event of disaster. With these views he should vote in favor of the amendment of the gentleman from Virginia. He took a view of the usefulness of the different grades of the service, eulogizing the skilful gunners, by whose superiority the ships of the United States had triumphed over all which had been opposed to them. He dilated on the value of the schoolmaster; and, at this point, he gave way to a motion that the committee rise.

The committee then rose and reported progress, and obtained leave to sit again.

The House then adjourned.

FRIDAY, DEC. 19.

REMISSION OF DUTIES.

The House resumed the consideration of the following resolution, submitted by Mr. CLAYTON on the 16th instant:

"*Resolved*, That the Committee of Ways and Means inquire into the expediency of reporting a law for the purpose of remitting the duties on locomotive engines, railroad car-wheels with rolled iron tires, axles, springs, &c., already imported, or which may hereafter be imported within two years."

The question being on striking out "Committee of Ways and Means," and inserting "Committee on Manufactures,"

Mr. EWING said he had taken the floor, yesterday, with no intention to make a speech; that he should be in favor of sending the resolution to the Committee of Ways and Means, because this committee were known to be in favor of the object contemplated, and because he felt anxious to have such influence to advance the cause of internal improvements, without in any way impairing the tariff compromise. He viewed the remission of duties contemplated as involving the same principle, and virtually the same in effect, with a direct appropriation of money now in the treasury, to improve our roads and navigable rivers; and this, too, without establishing unnecessary ports of entry, or allowing any discretion in relation to the character of works which are, in all cases, evidently calculated to promote the general welfare. True, Mr. E. said, the resolution might with propriety be referred to different other committees of this House; but precedent sanctions that on the Finances, and points to a favorable decision. He did not conceive any conflict of national interests courted by this proceeding; the influence of manufactures would be extended by increased facilities of intercourse: even the consumption of American iron would be increased, by affording advantages to the agricultural interest; and the tariff of 1832 would not be injuriously abridged or infringed upon. The fears expressed by a portion of the manufacturing interest, he thought uncalled for; railroads are a most essential manufacture, and the importation of iron from Sweden, and from England, for agricultural purposes, may be found unprofitable, when our own can be transported with more expedition at a lessened expense.

Mr. E. said it was with pleasure he adverted to the quarter from which this resolution emanated—certainly aware that the highways of the West, whether by land or water, are also entitled to aid from the treasury, upon every principle of equal rights; he would, therefore, anticipate increased strength by votes from the South hereafter, to obtain in this House pecuniary aid for the essential national objects of internal improvement. Such objects have, unfortunately for the Union, depended

during some years upon the exercise of a discretion, resting in the absorbing, and now all-commanding, executive power existing. It is only of late that the President intimated constitutional objections to grant aid to improve the Wabash river, a stipulated national highway, connecting the lakes with the Mississippi, and opening an inland navigation from the South to the East, because no port of entry, no custom-house, is yet established immediately upon its margin. Without being too inquisitive, Mr. E. said he had been unable to discover what clause of the constitution authorized the great and commanding power of the President, with the aid of this House, to extend constitutional power by creating ports of entry, or the authority to make appropriation. But that doctrine would soon explode, and wise and free people would never sanction it, and their representatives should promptly stamp it with an eternal seal of reprobation. The constitution belongs to the people, and the junction of no two departments of this Government can increase or abridge the power it confers.

Mr. E. earnestly hoped that an increase of useless Government patronage, at the expense of the people, may not be required to render an indirect appropriation to promote the construction of railroads. It is true, indeed, that however fashionable it has become to do indirectly what is directly disclaimed in certain quarters, yet he would trust that, in this matter, ports of entry and custom-houses may not be stipulated for, to avail of the remission of duties contemplated—and that local and general improvements may never be allowed to depend solely upon an erring discretion in any department of the powers of this Government.

Mr. E. would not extend the latitude already taken in this debate, and he hoped the question of reference would now be taken.

Mr. RENCHER said that he was opposed to the resolution in its present shape, because the friends of the tariff in the House objected to it. He should therefore have voted to lay it on the table, but for his personal respect for his friend from Georgia [Mr. CLAYTON] who had moved it to the House, and in the hope, too, that some measure might be proposed by the committee acceptable to all parties. He would not vote for any bill or any proposition, come from whatever committee it might, if the friends of the tariff should believe it a departure from the compromise bill of 1833.

It is true this was a resolution of inquiry merely, but of so delicate a nature, and so vitally involving the peace and harmony of the Union, that he regretted it should have been introduced, especially as it had created such general excitement. The first part of the resolution proposes the remission of duties upon cars and other irons used on railroads, and which have heretofore been imported; this part of the resolution seemed most properly referrible to the Committee of Ways and Means, and to this part of the resolution he supposed there could be little objection by the friends of the tariff, as it would not conflict with their manufactures. The other part of the resolution goes still further, and proposes to remit duties upon importations hereafter to be made. This part of the resolution proposes a change in the impost system, and to that extent must necessarily affect the growth and production of similar manufactures in this country. It is for this reason that the friends of the tariff object, and contend that it is a violation of the tariff of 1833, which was considered a compromise of this delicate and vexed question. Sir, I will not inquire whether it be a violation or not. If they believe so, it is enough for me. They tell you that they believe it a blow aimed at the compromise. I know it was not so intended, but if they believe it will in any degree affect that compromise, I will vote against it.

But why should we remit these duties in favor of those railroad companies? Are they not as able to pay the duties as any other class of people? Do not gentlemen perceive that, in proportion as you extend the range of free articles, you must continue heavier duties upon other articles, for the support of the Government? Ought not these wealthy companies to contribute to the support of the Government as well as the farmer at his plough or the mechanic in his shop? And yet this resolution proposes to remit the tax upon the one, while it must continue them on the other. To my mind, this is unjust and oppressive. But gentlemen say this is done to promote internal improvements in the States. Sir, this is to do indirectly what we have no direct constitutional power to do. Those with whom I act believe, and in my opinion very correctly, that we have no right to apply money from the federal treasury to promote works of internal improvements in the States; but this to my mind is substantially the same thing. You arrest the money before it comes into the public treasury, and you do this for the avowed purpose of promoting internal improvement. In other words, you regulate your duties to promote this object—you exert a power clearly given, but given for another purpose, to accomplish that for which you have no granted power. This is the very perversion of the constitution, in relation to the tariff, of which we have always complained. While, therefore, I am willing to reduce the duties to a fair revenue standard, I am not willing to go below that standard.

But, sir, my main objection to the object embraced in the resolution is, that it is considered by the friends of the tariff a violation of the compromise bill of 1833. I was one of those who accepted of that bill. I received it as a peace offering, I adopted it in good faith, and am determined to stick to it in the strictest honor. Mr. R. said the benign influence of that bill had been felt throughout the whole Union, in diffusing peace, happiness, and prosperity. Let gentlemen preserve the spirit of it inviolate, lest we may find ourselves again thrown on the wide and troubled ocean of discord and discontent. I shall therefore, said Mr. R., vote for the reference of this subject to the Committee on Manufactures, or give to it any other direction which the friends of the tariff may indicate; nor will I vote for any reduction which may not meet their approbation.

Mr. BEARDSLEY said, as the object of the resolution was merely an inquiry, he had voted against laying it on the table. But in the reports which had been made, and the manifest anxiety of gentlemen to pursue the discussion, it was now apparent that the subject would lead to a protracted and almost interminable debate. Believing that the subject, though of some little importance, was not sufficiently momentous to engross so much of the attention of the House as it threatened to do, he should propose to lay it on the table. He would only remark, as to what had been said in regard to the compromise, as it was called, that he could not admit that the legislation of one Congress could be in any way trammelled by the legislation of a former Congress, on any subject. He felt no more embarrassment by the passage of that law, at that time, than he would by the passage of any other law, at any other time. He moved to lay the resolution on the table.

Mr. CLAYTON, of Georgia, asked the gentleman of New York [Mr. BEARDSLEY] to withdraw his motion until he could reply to the remarks of the gentleman from North Carolina, [Mr. RENCHER.]

[The motion was withdrawn.]

Mr. CLAYTON said he would remind the House that the resolution was merely one of inquiry, and that it could not possibly be known, until inquiry was made, whether it did interfere with the compromise or not.

He was free to say that, if it did, he would surrender the question; for he hoped he should be one among the last men who would disturb the settlement of a matter entered into so solemnly, and that had quieted such distracting agitations. But it was not true, in his opinion, that it did disturb that question. Similar applications had come from the tariff interest itself. Railroad iron had been exempted from duties, on their exclusive solicitation. A large proportion of the friends of the present measure belonged to that side; let an inquiry, therefore, be made, and if it should turn out that the object sought by the resolution so interferes with the tariff question as to disturb the compromise, it will no longer have his support; but he should hope to hear no more from that side of the question about suspending duties upon objects that happen to suit their particular convenience, as in the case of railroad iron. Let us have no more applications for relief when it answers their purpose, and then a loud complaint when a measure precisely similar comes before the House from the other side, that does not altogether suit their taste.

The gentleman from North Carolina seemed to think that the resolution favored the very doctrines against which the South had been so long contending, namely, protection. If he (Mr. C.) thought so, he surely would abandon it as quick as he could get away from it; but he thought he could convince the gentleman himself that that idea was erroneous. He did not consider the present duties on the objects contained in his resolution as revenue duties; they were not intended for the support of Government, but were exclusively designed to protect those articles. So far, then, he considered he was assailing an unlawful, and he meant by that expression an unconstitutional, provision. He was only asking a simple repeal of a law, which was passed in derogation of the great interest which he represented. If, when the law was about to be passed, it would be a good argument against it to say that it greatly prejudiced the agricultural interests of the South, that it was invading their rights, surely it was legitimate to come here and ask a suspension of the duties for a limited time in favor of those rights. He did not ask protection of those interests; he only asked a restoration of those privileges of which they had been robbed. This was the proper view of the question. But for these duties that had been laid for the express purpose of a particular class, the great agricultural and planting South could have gone on to erect railroads, and procured the materials necessary for that object without taxation; and now that they ask to have these taxes suspended, it is conceived they are in favor of protecting certain interests in the country! No, sir, it is not protection, it is matter of right we ask; and the apparent disposition to refuse it shows how soon that will be considered as a right, by an exclusive interest, which was originally yielded as a matter of favor. He repeated that, if he thought his motion went either to support the protective system or to disturb the compromise, (and in the compromise he considered the whole American system involved—not only the tariff, but internal improvement,) he should abandon it without delay; and if his resolution is rejected on either of these grounds, he shall be perfectly satisfied, and shall henceforth consider it as proof, assuming the authority of precedent, of the first solemn determination of Congress to sustain the compromise. Now, go which way it may, he would be content.

Mr. BINNEY said that, in consequence of his connexion with the subject at the last session, he would ask the gentleman from Georgia to withdraw his motion to lay on the table, that he might make a remark or two to the House. [It was accordingly withdrawn.] The resolution, he said, had been misapprehended by the gentleman from North Carolina to his left. It said nothing about railroad iron; but was confined to locomotive engines, and cast iron wheels, with rolled iron tires, for railroad cars. The gentleman appeared also to think that railroad iron was now, in all cases, subject to duty, and that to take it off was a direct interference with the tariff. But the contrary was the fact. Railroad iron imported and laid down for or by States or corporations was now duty free. Private persons alone did not enjoy this privilege; and the question presented, as to railroad iron, was, therefore, simply, whether individuals with small capitals, prosecuting the construction of private railroads from coal mines to a principal public railroad, should have the privilege which corporations now enjoyed. This was, as to railroad iron, the simple question involved, not in the resolution, but in a proceeding of the last session, still to be disposed of by the House. The history of the resolution showed that, in its origin, it was not thought to have any anti-tariff bearing whatever. At the last session memorials were presented from Schuylkill and Lehigh counties, in Pennsylvania, praying for the remission of duties on locomotive engines and car wheels of the kind referred to, and for their importation duty free for a limited time, and also for an extension to individuals of the privilege enjoyed by corporations, of importing railroad iron duty free. These memorials were referred, without objection, to the Committee of Ways and Means, who reported a bill carrying into effect the principle of the present resolution, and making railroad iron, for use upon railroads, free of duty on private importation.

The last bill was now upon the calendar, not having been finally acted upon at the last session. The former bill was passed by this House, with an amendment striking out the prospective section, and merely remitting duties on previous importations. It failed in the Senate for want of time. This was the history of a proceeding, now renewed in part by the gentleman from Georgia, and which had caused so much discussion. He was of opinion that the resolution should go to the Committee of Ways and Means; and he would submit a few of the reasons which had induced this opinion. The question had not, as he thought, any relation to the tariff, or to what was called the compromise. In relation to both the tariff and the compromise, whatever might have been his opinion as to either of these measures, (and he could not say that it had been very favorable,) there was no gentleman in the House less disposed to affect the present code, standing in the peculiar way it did, either directly or indirectly. He was in favor of the reference to the Committee of Ways and Means, because he thought the resolution did not affect the compromise. There was, however, a distinct reason for this reference. The same question had gone to the Committee of Ways and Means at the last session, and it had been investigated. Part of their report, that which regarded railroad iron, was now to be acted upon, without further reference; and as to the residue, having been acted upon by that committee, he did not think that any thing in the course of the committee, upon this branch of the business committed to them, justified the reproach implied in taking it away from them. Upon no occasion did that committee evince the least disposition to disturb or even to raise the tariff question.

He was individually sensitive on the subject, and perhaps peculiarly so, in consequence of his opinions and position. He was not disposed, nor to his knowledge was any member of that committee, to report in favor of any thing that could have this tendency. As to nearly the whole of the resolution, he thought it could not, upon any just view of the subject, lead to such a result. The remission of duties on past importations of locomotives and car wheels had no bearing whatever upon

the manufacturers of the country. His friend from Pennsylvania [Mr. CHAMBERS] appeared to entertain a different opinion, because he supposed that these machines were imported for sale, and were in the market competing with the manufacturer. He thought the fact was otherwise. They were imported to order, for particular railroad companies, and were in use by them. As to past importations, it was simply a question of removing a tax upon internal improvement, by which that species of enterprise was restrained, and no manufacturer of the country benefited. It went simply to return money paid into the treasury, and this branch of the resolution, therefore, belonged by the rules of the House to that committee. As to the future importation, for a limited time, if it should turn out to have a tariff bearing, by interfering with domestic manufactures, that would doubtless be a reason for not proceeding with it. It was a narrow question, depending on the fact of the existence of such factories of locomotive engines, and cast iron wheels with rolled iron tires, in this country, as had been asserted to exist. It was remarkable that, although the subject had been before Congress for a twelvemonth, no memorial from persons having such factories had been presented in opposition to the proposed measure. It was true that, within two days past, he had received from a source entitled to all confidence, though one having an interest in the question, some information which varied from what had previously appeared to him to be the state of this branch of the arts. As to locomotives, and car wheels of the kind referred to, he had understood they were not manufactured at all in the United States. He had asked for further statements from his correspondent, to give more precision to the facts, and, when obtained, he would certainly lay them before the House.

But this was no objection to the reference originally moved; for if the facts appeared to present a case of interference with the tariff, should future importations be allowed duty free, the committee probably, and he himself certainly, would act in conformity with their previous course, and confine themselves to the simple return of the duties already accrued. There was no necessity for separating this branch of the inquiry, in consequence either of its magnitude or complexity, from the other parts, which peculiarly belonged to the Committee of Ways and Means. It was not sufficient merely to suggest that a remission of duties might possibly affect some other interest, to take the subject from the Committee of Ways and Means. He therefore hoped that the amendment proposed would not be agreed to.

Mr. RENCHER explained that, by railroad iron, he meant all iron used on railroads, for wheels and axles as well as other purposes.

Mr. DICKERSON spoke briefly in support of the motion to amend, and urged that the Committee on Manufactures was the proper committee for inquiring into and reporting the facts in regard to the state of the manufactures in this country. He moved to lay the resolution on the table, but withdrew it at the request of

Mr. BURGES, who expressed the opinion that the resolution ought to go to the Committee on Manufactures, because it presented a question which affected the manufacturing interests, and not the revenue. It was a question whether it invaded the principles of the compromise, and he was glad to find that the motion to remit duties came from those who were so strenuous for that compromise. The people of this country, he assured gentlemen, would not suffer their interests to be compromised; and when the tariff was so far reduced that their industry would be put on a level with the labor of Europe, and of the South, this thing which we called a compromise would not stand a moment.

He also remarked that, if the duties were removed from wheels, every thing in the shape of a wheel, that could be made, would be imported, with a view to get the iron into the country free of duty. Axles and tires would come here of English rolled iron, not touched by a hammer, and put, full of flaws, upon our railroads, to the imminent peril of our necks; for such iron, he said, was more brittle than the ice made in one night. He renewed the motion to lay the resolution on the table.

Mr. CONNOR called for the yeas and nays; which were ordered.

The question being taken, it was decided in the affirmative, as follows:

YEAS—Messrs. John Quincy Adams, John Adams, Heman Allen, Chilton Allan, William Allen, Banks, Barber, Barnitz, Baylies, Beardsley, Beaty, Beaumont, Blair, Boon, Brown, Bull, Burd, Burges, Burns, Chambers, Chaney, Chilton, William Clark, Corwin, Cramer, Crockett, Darlington, A. Davis, Day, Denny, Dickson, Dickerson, Evans, Horace Everett, Fillmore, Fowler, Philo C. Fuller, Galbraith, Garland, Gillet, Grennell, Joseph Hall, Hiland Hall, Halsey, Hannegan, Hard, Hardin, Joseph M. Harper, Harrison, Hathaway, Hazeltine, Heath, Henderson, Hiester, Howell, E. Jackson, Jarvis, William Cost Johnson, Richard M. Johnson, Noadiah Johnson, Benjamin Jones, Kinnard, Lane, Lansing, Laporte, Lay, T. Lee, Love, Lyon, Abijah Mann, Joel K. Mann, Martindale, Marshall, Moses Mason, McKennan, McKim, McLene, McVean, Jesse Miller, Milligan, Miner, Henry Mitchell, Robert Mitchell, Morgan, Muhlenberg, Osgood, Page, Parks, Parker, Patterson, Dutee J. Pearce, Phillips, Pierson, Pinckney, Pope, Potts, Ramsay, Reed, Schenck, Shinn, Slade, Sloane, Smith, Standefer, Steele, Stewart, Sutherland, William Taylor, Francis Thomas, Thomson, Tompkins, Turner, Tweedy, Vanderpoel, Van Houten, Wagener, Ward, Webster, Whallon, Frederick Whittlesey, Elisha Whittlesey, Wilson, Young—123.

NAYS—Messrs. J. J. Allen, Archer, Ashley, Beale, Bean, Binney, Briggs, Bunch, Bynum, Cage, Cambreleng, Campbell, Carr, Casey, Chinn, Claiborne, Clay, Clayton, Clowney, Coffee, Connor, Crane, Davenport, Deberry, Dickinson, Dunlap, Ewing, Felder, Ferris, Foster, William K. Fuller, Gamble, Gholson, Gordon, Graham, Grayson, Griffin, Hamer, James Harper, Hawkins, Hawes, Hubbard, Huntington, Inge, William Jackson, Kavanagh, Kilgore, King, Luke Lea, Letcher, Lewis, Lincoln, Loyall, Lucas, Manning, Mardis, John Y. Mason, May, McCarty, McComas, McKinley, Moore, Murphy, Patton, Peyton, Pickens, Pierce, Polk, Rencher, Reynolds, Robertson, William B. Shepard, Augustine H. Shepperd, Spangler, Speight, Stoddert, William P. Taylor, Philemon Thomas, Trumbull, Vance, Watmough, Wayne, Wilde, Williams, Wise—85.

So the resolution was laid on the table.

PRESENTS FROM MOROCCO.

The joint resolution for the sale of the lion and two horses, received as a present from the Emperor of Morocco, was read a third time.

Mr. J. Q. ADAMS moved to amend the resolution by striking out the words "and required," in the fourth line. At present it reads, "that the President of the United States be authorized and required to make the sale." It had not been usual to require any act of a co-ordinate branch of the Government; and, he presumed, it would be sufficient to authorize the President to cause the sale to be made.

The amendment was adopted, and the resolution agreed to.

DAVID KILBOURNE.

The bill for the relief of David Kilbourne coming up for a third reading,

Mr. WHITTLESEY opposed the appropriation, on

the ground that the claim did not come within the rule presented in such cases, and that to grant the claim would be to establish a new principle, which might involve the Government in interminable responsibilities.

Mr. WARDWELL advocated the claim, on the ground that the personal services of Mr. Kilbourne, as a spy in the American army during the late war, the personal sacrifices he had made, and the personal sufferings he had endured, were all such as to justify the appropriation.

Mr. WHITTLESEY, of Ohio, and Mr. CHILTON, opposed the bill at length.

Mr. BRIGGS spoke in favor of it.

Mr. BURD said he was strenuously opposed to this bill, on the principle that no act of legislation ought to be passed in favor of a traitor. He felt that it would degrade their records and the character of that nation which would sanction such a practice. There was usually placed at the disposition of every commander of an army a military chest, out of which, he maintained, such services should be paid. He would not object to payment in that way; and reminded honorable members who desired to establish, by the passage of this bill, a disgraceful precedent, to refer to the practice of other countries. In England, they all knew, there was such a traitor as Arnold; but although that name was to be found undoubtedly on the red book as a pensioner, they would not find it on the statute book. No! they would not so disgrace their records.

Mr. CHILTON followed, in support of the views of the preceding member.

Mr. BURGES advocated it.

The debate was arrested by Mr. PARKS, of Maine, who, having obtained the floor, submitted a motion that, when the House should adjourn, they would adjourn over until Monday; which prevailed; and

The House adjourned.

MONDAY, DECEMBER 22.

ADMINISTERING OF OATHS.

The bill to authorize registers and receivers of the land offices to administer certain oaths connected with the entry of lands, reported from the Committee on Public Lands, was read a second time.

Mr. LANE moved to amend the bill so as to require the land officers to administer the oaths free of expense to the purchasers.

Mr. McCARTY opposed this amendment, and submitted an amendment which, he said, he would offer when this was disposed of, providing that the Government should allow an extra compensation to the officers for the extra duty.

Mr. LANE advocated the amendment offered by him, contending that the bill, as it was reported, went to increase the salaries of the registers and receivers, who were already better paid than any officers under the Government. If the House was prepared to adopt the bill as it was reported, they would raise the salaries from $3,000 to $5,000 a year. In many instances the fees for administering the oaths would amount to more than a thousand dollars a year. The officers, he believed, were willing to undertake the duty, without extra compensation, and there were thousands of citizens, fully competent to the duties of those offices, who would be glad to accept them, with the additional duty proposed, at the present salary.

Mr. McCARTY replied that the very reason offered by his colleague why the land officers should not be compensated for the additional labor imposed on them was a good reason why they should receive extra compensation. For if the extra labor to be imposed on them was so great as to enable them, at the usual rate of compensation, to make one or two thousand dollars, it was great enough to entitle them to some extra compensation. The land officers, in some districts, might be willing to undertake the extra duty, for the reason that their share of it would be very small. But in some districts it would be very great and burdensome.

Mr. CLAY regarded both of the amendments as very unimportant, compared with the importance of the speedy passage of the bill. He hoped, therefore, the question would be taken without delay. He was willing to adopt the first amendment, believing that the officers were willing to undertake the duty.

Mr. McCARTY moved to commit the bill to the Committee of the Whole, making it the order of the day for to-morrow.

Mr. LYON, of Michigan, was opposed both to the first and second amendments. He saw no objection to the bill as it stood.

Mr. ASHLEY said he considered the amendments as of secondary importance to the bill. It would be a great convenience to those who entered lands to have the necessary oaths administered to them at the land offices. He had no objection to the first amendment, requiring the officers to administer the oaths free of expense; and he was anxious that the bill should pass, believing that it would be defeated by delay. He therefore moved the previous question.

Before the question was put, Mr. A. said he would withdraw the motion for the previous question, at the same time expressing the hope that the House would not commit the bill, but suffer it to be engrossed for a third reading.

The motion to commit the bill was put and negatived.

The question being on the amendment offered by Mr. LANE,

Mr. J. Q. ADAMS hoped, he said, that the amendment would be adopted; it would diminish the expense of the public lands to the purchasers, without an increase of the salary of the land officers. He could see no necessity, policy, or justice, in giving an additional salary to those officers, for, like all other officers of the Government, they were bound to devote their whole time to the Government service. He objected still more to the proposition of the gentleman from Indiana near him, [Mr. McCARTY,] to charge the Government with the extra compensation to the officers, because it would, to the amount of such extra compensation, be a reduction in the price of public lands. Sir, (said Mr. A.) we had propositions enough before for reducing the price of the public lands—for giving them away. Every day we have propositions, the result of which will be, whatever may be the intention of the movers, to rob the public of the lands. It was time, he thought, for that portion of the members of the House who claim for each State a common right in the public domain, to discountenance these propositions. His doctrine was, that the public lands belonged to the whole nation; to Massachusetts as much as to Indiana. He called upon gentlemen who entertained the same views to hold on upon their common property, and to resist the propositions which, in resolution after resolution, are thrown upon the House for distributing the public lands among the States where they lie.

Mr. CLAY remarked that, in the proper order of proceeding, the first proposition to amend ought to be disposed of before the other was discussed. The gentleman from Massachusetts expressed great alarm lest there should be a conspiracy to rob the public of the lands. The discussion would be more appropriate at another time, when the subject of the disposition of the public lands would come up. The gentleman would then find that it was proposed, not to rob the country of the public lands, but to reduce the price to something like their

actual value. He had heard of no proposition to give away the lands. The gentleman should recollect, too, that the old States are in the full enjoyment of their full share of benefits derived from the public domain. Where are the millions of dollars paid for public lands? Who had received the benefit of this vast treasure? Have not the old States engrossed it almost entirely? All the propositions which came from the new States, in reference to the lands, were for the reduction of their price to their value. The question was now on the amendment offered by the gentleman from Indiana, [Mr. LANE.] When that was disposed of, and the other amendment came up, the subject introduced by the gentleman from Massachusetts might be a fit topic of discussion. He viewed it as a matter of less importance to the purchasers of the public lands, to be obliged to pay twenty-five cents to the land officer instead of a justice of the peace, than to be enabled to close their purchase without delay.

Mr. BOON did not rise to oppose the proposition of his colleague, [Mr. LANE,] but to suggest to him that its operation would be very unequal. Where the lands had been long in market, the compensation of the officers was but 600 or 800 dollars, while in the new land districts it amounted to 2,000 or 3,000 dollars. In some districts, where the least compensation was received, the largest share of the proposed extra duty was to be performed.

Mr. LANE thought his colleague, he said, was entirely mistaken. The amendment imposed the additional labor in direct proportion to the number of entries made. One word as to the object of the amendment. It was important that the purchasers of the public lands should be able to procure some persons to administer to them the prescribed oaths, without unnecessary delay or expense. The land officers were always at hand, and were better qualified than any other persons for the duty. It was equally important that they should perform the duty without fee; for it would be very unwise to add 1,000 or 2,000 dollars to the compensation of the register and receiver.

Mr. MARDIS said that some of the remarks made seemed to him to be wide of the question before the House. The oaths were administered now by justices of the peace, and were attended with much trouble and expense. It was now proposed that the oaths should be administered, and without compensation, by the land officers, and upon that proposition we were about to get up a debate on the disposition of the public domain. He was in favor of the bill, and the amendment offered by the gentleman from Indiana, [Mr. LANE,] and he hoped the question would be decided without further debate.

The amendment was agreed to, and the bill ordered to be engrossed.

PAY OF NAVY OFFICERS.

The House then resolved itself into a Committee of the Whole on the state of the Union, (Mr. BRIGGS in the chair,) on the bill to equalize and regulate the pay of the officers of the army and navy of the United States, and the amendments thereunto proposed by Mr. WATMOUGH, as chairman of the select committee, and by Mr. WISE, a member of the Committee on Naval Affairs.

Mr. PEARCE said he had but few words to add to the remarks which he addressed to the committee on Friday last. He would be brief, and he hoped the example would be followed. He professed no spirit of prophecy; but he deemed it no hazard to predict that if the bill was not passed through the committee to-day, or at furthermost to-morrow, its fate would be greatly periled by the delay. Mr. P. then proceeded to give the reasons which induced him to prefer the amendment offered by the gentleman from Virginia [Mr. WISE] to that of the select committee. When he last addressed the committee, it appeared that he misconceived the nature of the duties of a gunner on board of ship. He supposed his station to be at the gun, but he was now informed that this officer had charge of the magazine, and was placed below to deal out the ammunition in time of action. Mr. P. said, however, he had nothing to take back in what he had said. The importance of the office, in his mind, was in no respect depreciated, but rather enhanced. A man who filled that very responsible station should be one of character and respectability, and his pay should be commensurate with his services. Mr. P. next spoke of the importance of the officer denominated the schoolmaster; or, by the amendment of the select committee, called the professor of mathematics. He contended that these should be as competent as any of the professors of our universities, and have a corresponding compensation. There once was a project afoot for the establishment of a naval school in our country; but for his own part he had no hope of living so long as to see that object realized. When he reflected on the strong feeling, he might say prejudice, existing against our military school at West Point, he despaired of ever seeing one established for the navy. Another difficulty was, that even if the project was a popular one, a delegate in the councils of the nation from Maryland would probably deem Annapolis a proper location for the school; one from Pennsylvania would think Philadelphia its most eligible site; while he himself would doubtless contend that the place of his own residence was preferable to all others. Under these circumstances, the office of schoolmaster on board became doubly important in his estimation. He next spoke of the pay of surgeons and their assistants, preferring the more liberal compensation offered by the amendment of the gentleman from Virginia, [Mr. WISE.] He understood these officers were compelled to furnish their surgical instruments, which rendered it necessary to expend two years' salary before the commencement of an ordinary voyage. Mr. P. said he did not wish to curtail the pay of any officer in the service, but he could not understand what was meant by the continual reiteration of the importance of commanding officers being enabled to support their dignity, and the dignity of our Government, while abroad. He wished to pay them liberally—to pay them all that was necessary. But he did not conceive it to be proper to take the pay of either French or British officers as a criterion to regulate that of our own. What might be necessary for the support of Admiral Nelson at Naples, he did not think would be required by Commodore Rodgers on the same station. The latter would not, like the former, have to defray the extravagant expenses of the lady of an English nobleman. Again, there were other disparaging circumstances in the service operating against the junior officers of the navy. They had not the same chances of promotion that their seniors have enjoyed, among which was the benefit of the wars in which our country has ever been engaged. Mr. P. said he certainly could have no feeling conflicting with the interests of the captains. To Commodore Rodgers he felt under peculiar obligations, as having done more for his State than any other officer in the navy. Captains Hull and Chauncey he looked upon as the next door neighbors of himself and his constituents. Captain Morris he considered as the joint property of Rhode Island and Connecticut. But some of the senior officers of the navy have already enjoyed an oppportunity that probably will never fall to the lot of the juniors—that of making fortunes by the transportation of specie. The gentleman from New York [Mr. MANN] had advocated the reduction of the salaries of the officers of the army. Mr. P. said, if they were overpaid, we could not well re-

duce their compensation for the purpose of giving the excess of their compensation to the officers of the navy, who were not, in his opinion, sufficiently paid. If the compensation of officers of the army had been under consideration, he would have said that some of them were, in his opinion, overpaid, and others not paid as they ought to be. He adverted to the advance which had been made in the pay of other officers of the Government, particularly the heads of the Departments, all of which had been advanced at least one-third; while that of our naval officers has ever remained stationary. Attempts had often been made to reduce the pay of members of Congress; but gentlemen knew how futile all such attempts were. Masters commandant in our navy must remain fifty years in the service before their daily pay became equal to the boys—the pages and messengers of the House. These boys, he said, faithfully earned their money, perhaps more faithfully than many members did. But where was our liberality to old and faithful servants in the public employment? It certainly was not evinced in the pay of masters commandant. It was true, we sometimes paid them with compliments—with votes—and mayhap with a sword. Mr. P. proceeded to compare the pay of the officers of the army and navy—contending that the latter should be raised, rather than the former reduced. He concluded by repeating his preference for the amendment of the gentleman from Virginia, [Mr. Wise,] as the most equitable and satisfactory in all its details.

Mr. VANDERPOEL said that the course which the debate had already taken was such as every gentleman at all acquainted with the elements of which this House was, and from the nature of things ever must be, composed, would naturally expect. The American navy! A proposition to increase the pay of its officers! What charming themes to draw out on the one side the soul-stirring effusions of those orators (and he recognised one [Mr. Ward] in a most esteemed colleague) whose hearts were warmed and whose tongues were inspired by the recollection of what our gallant navy had done; and, on the other, the more chilling lucubrations of those over-vigilant sentinels at the door of your treasury, whose over-estimate of one virtue, sometimes called economy, and sometimes parsimony, was apt to induce an under-estimate of another virtue, which might be properly called national justice. He would not say that the remarks of another of his honorable colleagues, [Mr. Mann,] who had avowed such uncompromising hostility to this bill and its amendments, entitled him to a rank among those two faithful sentinels. The frank and bold manner in which he always stated his propositions was an ample guarantee of his sincerity in whatever course he might take in relation to the various subjects that came here for our action and deliberation.

His colleague [Mr. Mann] seemed to be not a little troubled about the manner in which this bill came before us. It did not, in his opinion, come from the right source. It did not emanate from a standing committee of the House, and therefore, in his opinion, it ought not to be treated with much favor. For my part, said Mr. V., I care not how it came here; if it has only proceeded from one of the regularly constituted organs of the House, I will, if it has merit, adopt it. Has the child charm and attraction enough to commend it to our favor? Has it the charms of truth and justice? If so, why should we not embrace it? Why institute a most useless and unkind inquiry into its pedigree? But if it were in this instance necessary to vindicate its parentage, or establish its legitimacy, he would not even despair of that task. Did the subject, referred to the committee which had reported the bill under consideration, peculiarly belong to either the Military or the Naval Committee? Not at all, sir. Both the army and navy were within the scope of the inquiry contained in the resolution which had created the committee. They were required to "inquire into the expediency of equalizing the pay of the officers of the army and navy," and it was, therefore, emphatically fit and proper that it should be referred to an amphibious committee, like the one which has reported this bill. The fallacy of his friend and colleague's objection to the form (he spoke with great deference) was exceeded only by the unsoundness of his views in relation to the substance.

In regard to the general question, whether the compensation of the naval officers ought to be raised, long speeches must surely be useless. The arguments for and against the proposition would very readily occur to every intelligent mind. No very new or unknown facts could be disclosed—no strikingly new principles could be developed by discussion. The only questions to be determined were, first, is the laborer worthy of his hire? and, secondly, what compensation do the obligations of justice, as well as the honor of the nation, require that we should render him? For his own part, Mr. V. said, he would freely acknowledge that, until his attention was called to this bill, he was not aware (to borrow the very just and emphatic language of the Secretary of the Treasury) "how degradingly low" was the compensation provided by law for the officers of the navy. No candid man could doubt that they were more wretchedly paid than any other officers under the Government. Was it not indeed surprising that, with the prospect of such pitiful emolument, so many good and gallant men, who have wants like ourselves, could have been induced to enter the naval service? The love of country and the love of glory must indeed have been with them, what they should have been, paramount considerations. It must, however, be remembered that many, nay, most of the officers entered the naval service long before they had arrived to manhood, and were induced by parents and friends to choose this noble and patriotic occupation. They grew up to man's estate, and then found themselves dedicated to the service of their country. Their habits were fixed, and their entire unfitness for any other avocation in life, by which they could earn bread for their wives and children, were as notorious and as well established as that the fishes of the deep could subsist only in their native element. Emphatically given up, then, as they were, to their country, were they not the legitimate objects of the care, or at least the justice, of that country? And yet, so low was the allowance upon which their stern parent had hitherto placed them, that parent whose interests they had ever been ready to vindicate, and whose honor they had so valiantly protected, that it would now be an insult to the understanding of intelligent and honorable gentlemen to attempt, by any labored process of reasoning, to prove that their present compensation could afford them aught but a mere scanty subsistence; that, if true to the honor and dignity of that flag which floats over them, they could not, with their mere official earnings, make any provision for old age and decrepitude, or become able to bequeath to their children aught but the glory of their achievements, which was, to be sure, in its way, very good food for a proud heart, but, after all, a very poor guarantee against nakedness and hunger.

Mr. V. said he would not enter upon a crusade against the army, but justice required that he should remind the House that the present compensation provided for the army is vastly greater than that which you give to your navy. The report upon your table tells you, sir, that a major general of the first rank, who ranks with a captain of the navy over fifteen years' standing, receives $3,542 more than the navy captain; that a brigadier general, who ranks with a captain over ten years' standing, receives $2,231 more than such captain; and that a colonel,

who ranks with a captain of the third rank, received $799 per year more than such captain. He might go on to the end of the chapter, but he had already instituted comparisons enough to show that the inequality was most gross and shocking. And what was there in the nature of the two branches of the public service to justify such prodigious inequality in the standard of compensation allowed to them? There was nothing. But, on the contrary, it was no injustice to the army to contend that, in time of peace, the claim to the highest compensation was vastly in favor of the navy. Yes, commissions in the army in time of peace were, compartively, sinecures. Barring the toilsome and honorable expedition against Black Hawk, and an occasional chase after a few retreating and predatory savages, what has your army done, or, rather, what has it had to do, since the peace of 1815? It had done all that had been required of it, but it could, in the nature of things, have but little or nothing to do. Not so with the navy; our vast and growing commerce must be protected; the pirate must be driven from the ocean; and peace and prosperity may smile over and gladden the land, but they bring to the gallant sons of the ocean no exemption from toil and peril.

And yet, sir, how has it happened that when the pay of every other officer of the Government has been increased, your secretaries, your treasurer, your register, your auditors, and your clerks in the Departments, those clerks, (he did not mean to speak disrespectfully of them as men, for he knew and esteemed many of them,) some of whom, as it regarded the nature of their duties, were mere machines, who did not require any more mind than the pens with which they copied the thoughts of others; how, he asked, had it happened that their compensation had been increased and increased from time to time, until they were in the receipt of very comfortable, not to say formidable sums, when the pay of the officers of the navy, the men who were the protectors of your commerce, and in some measure the guardians of your national honor, had not, as had all other compensations, "grown with the growth" of the nation? It was, sir, because those brave men were not able to be here, leaning over our bar, as others had an opportunity of being, to petition and beg for an increase of their remuneration. No; they were on duty, many of them far from their friends, their native land, and all the endearments of home. They were on their stations, or cruising on distant seas.

"Their march is o'er the mountain wave,
"Their home is on the deep."

And because such was the case, would Congress neglect them? He trusted not. It was, in fact, high time that the rights of these meritorious men should be taken into consideration. He was no enthusiast, but he thought a very high responsibility rested upon us to foster this most important branch of our national defence. He would say that, when he looked over the statement of the salaries that were paid to our naval officers, and compared those of the two services, the army and the navy, together, and looked also at the sums paid to our civil officers, he blushed, yes, blushed to turn from that statement to the records of history, in which it was told how much our navy had contributed toward the glorious results which this country had attained, with what imperishable laurels it had decorated its brow.

An argument against increasing the pay of the naval officers had been used by one of his honorable colleagues [MR. MANN] which struck him as entirely unsound. He had observed that the present compensation of captains and commanders of squadrons was much more than many gentlemen here can earn in their professions, and, therefore, it ought not to be increased. I fear, sir, that if this standard were applied to our own cases, it would be pretty sure to prove that many of us illy deserve our eight dollars per pay. The gentleman no doubt alluded to lawyers and physicians. Now, sir, many of us but too well know that clients and patients in our respective vicinities are unkind enough to imagine that they can very comfortably dispense with our services, and as to such (he did not mean to insinuate that his esteemed colleague was one) it might truly be said, at the end of a long session, when their per diem and mileage make a pretty "snug sum," that their receipts here range far above the standard which the gentleman has prescribed as a proper measure of compensation to public officers, viz: the amount they could earn at home. But, sir, ought not more elevated considerations to enter into the account in this matter than the mere estimate of what an attorney, in some quiet village, without any temptation or exposure to expense, could possibly earn or would probably require for the support of himself and his family? Can those who measure the merits and the claims of the weather-beaten sons of the ocean by so contracted a standard appreciate the perils and privations to which they are constantly exposed, and the very important trusts that are confided to them? Do they recollect that they are not only doomed to grapple with the enemies of their country, when the war trump is sounding, but that the storm, the tempest, and the pestilence, are everlasting foes with which no truce can be effected? That they are in a great measure the guardians of your national honor abroad, and that to them is committed, to a great extent, the high trust of convincing the subjects of monarchs and despots, what they have so strenuously contended against, that a popular Government is not subversive of all those courtesies and civilities, and that noble chivalry, which serve to characterize the gentleman, and elevate civilization? These were duties and considerations which, in his humble estimation, elevated the standard of a naval officer's wants above that of the sons of Esculapius or the disciples of Lord Coke. By saying this, he certainly meant no disparagement to those professions, of one of which he was an humble member.

He would, however, ask, why select any of the learned professions as furnishing a proper measure of compensation for your naval officers? Why not take one of the mechanical branches? for, surely, the mechanics were not inferior in respectability, or national utility, to any of the professions which have been called in question. No, sir; quite the contrary. The farmers and mechanics, the working and producing classes of the country, are indeed the salt of this nation. Blot them out, sir, and few and feeble indeed will be the hands to water that tree of liberty which took root with the Revolution. Why not fix upon their earnings and their income, as furnishing a proper measure of compensation to those who consent to be torn from their families, and all that is dear in "home," to fight the battles of your country? Why not say that a journeyman mechanic can earn only three hundred dollars per year, and therefore your naval officers should not receive more? Gentlemen, while pursuing the course the mischievous tendency of which I am attempting to demonstrate, should go the whole—figure, I mean. They should not be obstructed in or diverted from their course by the molehill impediments of national justice or national honor. He insisted upon the soundness of the principle, that there were some officers in the navy whose compensation should be such as to enable them to extend and reciprocate those hospitalities which they will naturally receive when abroad. It had been very appropriately asked during this discussion, by an honorable gentleman from Massachusetts, [MR. REED,] why does your President receive twenty-five thousand dollars a year? This

was truly a "pretty snug sum;" yes, it was a very large sum. Was it given to enable him to secure an inheritance for his children? No, sir. It was to enable him to extend those hospitalities which all men of liberal feelings have a right to expect, and do expect, from the Chief of a great, a free, and a wealthy nation. Your naval officers received civilities when abroad, and they would, as a general rule, dishonor the profession they had chosen, and that country whose stars and stripes they were so gallantly displaying, not to reciprocate them. This necessarily increased their expenses, and it was the occurrence of every year, that a high-minded officer, having done all, and no more, than the honor of his country required him to do, returned from a foreign cruise with empty pockets; yes, almost overwhelmed with debt and embarrassment. His proud spirit, sir, his love of country, could not brook the idea that the men and the officers of foreign nations should, when his back was turned, tauntingly and exultingly say, among themselves, "There is a specimen of your free Governments: its officers are afraid to accept of hospitalities abroad, because they are too stingy and too mean to return them." Sooner than expose the country which they loved to such cutting, such humiliating reproach, they have ever proudly sustained the honor of that country, though want and poverty were its sure penalties.

He would here take occasion to remark that the interchange of those civilities, on the part of our naval officers, with the citizens of other nations, was, or might be, of great utility, independently of that courtesy, he should say decency, which required our officers to respect them. By this reciprocation of courtesies, our officers enjoyed the opportunity of becoming acquainted with the habits and manners of other nations. They acquired facilities to see and to become acquainted with their harbors, their coasts, their public works, their resources, and with their vulnerable or their impregnable points—all which information might be of inestimable value in the event of a war with such nation. Every dictate of interest combined with every consideration of national honor to demonstrate the expediency of giving to our naval officers such compensation as would enable them to return, to a decent and reasonable extent, whatever civilities they might receive from the citizens of other countries.

But, said Mr. V., I have been at sea quite long enough. It was high time that he anchored for a few moments to the amendments of the gentleman from Virginia, [Mr. Wise.] He should vote for those amendments, because the original bill, or rather the amendment of the gentleman from Pennsylvania, as well as the amendments proposed by the honorable chairman of the committee, [Mr. Watmough,] introduced a new principle in our statute books. Hitherto, seniority of commission had not given any claim to an increase of compensation. It was true that, by regulations established by the Secretaries of War and the Navy in 1818, with the approbation of the President of the United States, it was established "that the rank and precedence of sea and land officers will take place according to the seniority of their respective commissions;" but he was not aware that there had been any legislative sanction of this principle.

[Mr. Watmough here referred Mr. V. to page 5 of the report, to show that this regulation has been sanctioned.]

Mr. V. said, if it were as the honorable gentleman had stated, he stood corrected. He had, however, another objection to the honorable gentleman's amendments. He thought that, in his very laudable solicitude for the senior, he had not done justice to the junior officer. He would instance the case of the lieutenants. They were, in the first instance, allowed $1,500 when at sea, and $1,200 when waiting orders. By the last amendments of the gentleman from Pennsylvania they were to be allowed $1,200 when at sea, and $1,000 when waiting orders.

There was in his opinion a vast disproportion between the junior and the senior officers. What was the present salary of a lieutenant? It amounted to $960 per year. This included rations and every allowance that they were entitled to. Now, when he considered that many of them would probably have to wait and toil forty years before they could be promoted—that they would have to serve six times as long as the patriarch of old served for his beloved prize, before they could be elevated to a captaincy, he thought the sum they now receive most "degradingly low," and that the sum first mentioned could not be deemed too high. He had, until he had very recently inquired into the matter, supposed that every thing was provided for our naval officers when at sea; that there were what are commonly called "ship stores" on board of our naval vessels, and that the officers, as well as the sailors, were provisioned at the national expense. He had discovered, however, that such was not the case; that the officers had to find their own provisions, and even their own table furniture and cooking utensils. Now, it was to be kept in remembrance that many of these officers had wives and families also to provide for on shore. They had in fact two messes to support out of their incomes.

And when he considered how onerous, how highly responsible, were the duties of a lieutenant, their claim to an increase of compensation would be greatly fortified. And what were those duties? As he understood, he had in time of action to direct and point the guns. Each lieutenant had charge of from sixty to seventy men—there being from twelve to fourteen men stationed at each gun. These men it was his duty to drill, and when the enemy was to be boarded, the lieutenant was, as he had learned from a source upon which he could rely, the first to board, unless a pike driven through his body prevented the execution of this hazardous piece of duty. He had, too, to take his turn on watch, and was held responsible for the general safety of the vessel. And what were his duties and obligations, according to the naval code of nations, on coming into port? Because it might be said that he, at least, had not the necessity of reciprocating the hospitality of officers in foreign service. But it was not so: according to the custom of naval life, the captains messed by themselves, and the subordinate officers by themselves; and if a lieutenant were entertained by an officer of the same grade in foreign service, on board ship, or on shore, he had to reciprocate the courtesy in like manner, by inviting him to the lieutenants' mess. He had asked a lieutenant how he managed to get along, having to comply with these customs, and having, besides, a wife and family to provide for. And his answer was, that, "when he left port he always found himself confoundedly in debt; and when at sea he worked for a dead horse, and there denied himself all the luxuries and many of the comforts of life." Is this, sir, the measure of American justice to public servants? He would not impugn the motives of the gentleman from Pennsylvania, [Mr. Watmough,] for he deserved much credit for what he had done in this matter; but he nevertheless thought that he had, in some measure, overlooked the claim of these lieutenants.

There was another heresy prevailing, which was in regard to the office and duties of gunner. A gentleman from Pennsylvania [Mr. Sutherland] had spoken with much eloquence in behalf of the gunners. Now, he (Mr. V.) had supposed that the gunner was the man who loaded and pointed and fired the guns; but he found that such was not the case; that they were not the "men of

fire and smoke;" that their station was in the magazine, below, comparatively out of the reach of shot and danger; and that they smelled no other "smoke" than that of the lamp which lighted that magazine. Why not, he would ask, give the increase to the hardy tars who had to serve at the guns—who were exposed to all the danger?

[Mr. SUTHERLAND here observed that he had also pleaded for the sailors.]

Mr. VANDERPOEL said he had already detained the committee much longer than he had intended when he rose, and hoped that he might, in conclusion, be permitted to say, without incurring the imputation of egotism, that he represented a strictly fresh water district; that he had had, in the course of his life, little or no intercourse with naval officers, and did not know that a single one of them could be numbered among his constituents. He did not know that he had a single relative in the naval service, and the vote which he should give for a reasonable increase of the compensation of this important branch of service would be dictated solely by a sense of the vast importance of the navy to the interest and honor, if not the safety of the country, and of the strong claims which its too long neglected officers had to the justice, not to say the liberality, of this great, this just, and opulent nation.

Mr. R. M. JOHNSON, of Kentucky, said that in every discussion of a measure during this short session, it was the duty of all to remember how much business we had to transact, and thus put a just value upon time, and to economize it. With this sentiment in his mind he would, on this important measure, indulge in a few general remarks. As to the navy, it was a great favorite with the nation; and that favorable opinion was not without good reason. The history of our country would furnish ample cause why we were partial to the navy. He would refer to our naval conflicts with the Barbary Powers, Tripoli, and our *quasi* war with France, and particularly our late war with Great Britain. Who does not recollect the feelings of gratitude, of confidence, and of patriotism, which swelled the bosom of every faithful citizen at the news of our splendid naval victories following each other in quick succession? Perry and McDonough on the lakes; Hull, Decatur, Lawrence, Porter, and others, of the mountain waves of the ocean.

Our gallant navy, therefore, was justly a favorite with the people. It had never excited the jealousy of the statesman or patriot. Its motto was, "for our country; right or wrong, for our country." This being the true state of the case, it was to him unaccountable and surprising that such opposition, such persevering opposition, should have been made to every proposition for the last twenty years to make adequate provision for the navy, and to assign proper grades of command to the officers. The people, by common consent, conferred upon our senior naval officers the honorary title of commodore, yet our laws have conferred no such command. The highest grade of command in our naval service was that of captain. He did not see any reason for such a state of things. It might have been correct when our navy was in its infancy—when we had only a captain's command; but now we had increased our navy from necessity; it had increased with our commerce and our population; and it was correct to confer higher grades of command, as much so as to confer the command and grade of a colonel to a regiment, of a major to a battalion, and a captain to a company. But let us pass from this subject to that of the compensation. Adequate compensation was still more necessary and important to the service than grades of command. It was a very difficult subject to know precisely what compensation ought to be given. It was very easy to commence with the salary and compensation of the civil officers of Government, and where they get annually $3,000, to say they could live upon $2,000; and that members of Congress, who now receive eight dollars per day, might live upon six or four dollars. In case of necessity, for our country, Mr. J. said, we could all live upon half rations. But it should be recollected we were not fixing the compensation of the navy upon any such principle. We were fixing it upon the principle of justice—of propriety. The laborer was worth his hire; the officers of the navy, and all attached to the navy, were working men—hard-working men—and that man would find himself egregiously mistaken if he supposed that he could enter the naval service and sleep upon beds of down. If he supposed that he could sleep and slumber, and fold his arms together to sleep, without trouble, without anxiety, he would find out his miscalculation. The reverse was his lot; it was a place of toil, of suffering, of hardship, of danger. From the hour that a man enters the naval service of his country, until he is hurried to "that bourn from whence no traveller returns," he will learn that his lot is one of privation, toil, anxiety, and trouble. Mr. J. said he was a working man himself—a hard-working man—ever since he had grown up to manhood; and his constituents were working men, and reasonable men, and patriotic men; and that is the reason why they have honored me so long. They know I will not squander the public money; they know I am not extravagant myself, and that I will not vote for extravagant salaries. But they have always sustained me in voting for salaries and reasonable and just compensation, which will make the officer easy in his circumstances; that which will enable him to live comfortably, not luxuriously; that which will enable him to furnish himself and a small family with the necessaries and comforts of life, but not with its superfluities; that which will enable him to live as a freeman ought to live in a free country; but not enough to make him wealthy. These are the principles by which he should be governed; these were the principles by which his constituents wished him to be governed; and they should govern in honor of them, and in honor of his country, and in honor of justice. In fixing the compensation, Mr. J. said he should look at human life and society as he found it, and inquire what sum was required to place the officers of the navy in the situation which he had described. He would then bring that information to govern his votes upon the compensation proposed.

Mr. J. expressed his regret that some of those who had spoken in favor of the navy had brought in the army, and had made comparisons which he did not consider useful or conclusive. He considered all such arguments and comparisons irrelevant. The army as well as the navy was a favorite with the American people. This favorable opinion was not without good reason. The history of the late war would prove it, and he should not vote to pull down the army to the condition of the navy, nor should he vote to elevate the navy upon any other principle than that of its own intrinsic merit. He said it was not necessary upon this, and he hoped upon no other, occasion, to contrast the gallantry of the army and navy, to induce Congress to do justice to either. For, if we look at the sacrifices which both have made for their country; if we will do justice to the devotion of both to their country; if we bring to our recollection the battles they have fought, the victories they have won, the gallantry they have displayed, they have glory enough for any army or any navy; and nothing now is wanting for them but a proper provision to make them respectable, and independent of the wants and frowns of fortune, and to hold themselves in readiness for any other crisis.

It should never be forgotten that, from the moment that any citizen enters the army or navy, he has to give

up totally all other pursuits; he has to abandon every other prospect of gain; and a good portion of his time he has to abandon society. There is no man who knows the hardships and sacrifices of a soldier's life, whether in the army or navy, but the man who has tried, who has made the experiment; but, as it is for his country, he bears it cheerfully.

The real truth is, that, in time of war, when every thing that is dear to freedom is at stake, when the country is suffering under all the calamities of war, and bleeding at every pore, we are disposed, if possible, to overrate the army and the navy, and particularly the merits of a brave and gallant officer. But in time of peace we are fully as much inclined to underrate each, and to think that they are a privileged corps, when, in fact, they are the working men of the Government, the drudges and dray horses of the country; they are working for their country all the time; and, unfortunately, in free Governments the spirit of jealousy inclines us often to pull down, in time of peace, the pillars of strength, and to undermine the foundations of our greatness and security. An instance of that kind is the opposition to the Military Academy, the institution and favorite of Thomas Jefferson. He was one among the wisest men of this world, and a learned man. He had examined the annals of all nations, and he saw that history confirmed the fact that, in a struggle for liberty, in all past time, double the quantity of blood and treasure had been spent for the want of the requisite skill and science in those gallant men who had conducted the struggle from the very beginning of the Revolution to its termination. General Washington made this point a subject of never-ending complaint. We have courage and patriotism, and in our small army and navy we cannot have too much skill and science. In my short military career, nothing was so much wanted as military knowledge and the sciences connected with it.

It is not very difficult for a brave and patriotic man, in the chimney corner, to underrate military science, which can be gained alone by long and hard study, or very long and often disastrous experience. But whenever he shall be brought into contact with any thing like equal talents and bravery, and the military skill of which we speak, he will soon change his opinion and acknowledge his mistake; and let the patriot, the citizen, and the statesman, never forget that the necessity of an army or a navy is predicated upon the probability, yea, the certainty, of war; and that both branches of defence are for the people's benefit, and that they depend upon them for their existence. We should not exalt them too high nor depress them too low.

It may be stated, with truth, that upon no subject was the testimony of military men more uniform, and more imposing, than upon the benefit, advantage, and utility, of military skill, military knowledge, and the science connected with the profession of arms. The contrary opinion was entertained generally by those who had not made the experiment, but who, no doubt, believed what they expressed as an opinion, by reference to some exceptions to general rules and general results; and by adverting to some brilliant achievements that would seem to contradict what has been advanced—such as the battles of Bennington and King's Mountain; but when we look at the bright, the brilliant, and also the dark side of this picture, it will be found that the opinion advanced is correct. Mr. J. said he would be in favor of the bill reported by the committee, with some few exceptions.

Mr. SUTHERLAND rose to suggest the propriety of action instead of discussion, as time was going on, and the hour of adjournment was near.

The amendment of Mr. Wise was then accepted by Mr. Watmough, as far as relates to the captains.

Mr. WISE withdrew the residue of the amendment.

Mr. MANN renewed the amendment, in order that he might move it again in the House.

This last motion was negatived.

The amendment of the committee, as modified by the gentleman from Virginia, was then agreed to.

The next amendment, relating to masters commandant, was then read.

Mr. WISE moved his amendment to this clause.

Mr. WATMOUGH made no objection to the amendment, placing himself in a situation of perfect candor before the House, the country, and the service. He accepted the modification, and the amendment was then agreed to.

The clause relating to pay of lieutenants, was then read, and the amendment offered by Mr. Wise was agreed to.

The clause relating to assistant surgeons was then read, and the amendment moved by Mr. Wise was opposed by Mr. WATMOUGH, who stated that the amendment was in conformity with the wishes of the surgeons and assistant surgeons, as expressed upon paper.

Mr. SUTHERLAND stated what was the expense of the education of a surgeon for the service, to show that the compensation was, in its best form, insufficient.

Mr. MANN also opposed the motion.

The amendment of Mr. Wise was then agreed to.

The amendment on the subject of surgeons was then read and agreed to.

Mr. WATMOUGH then moved an amendment in reference to the pursers, giving them $1,400 in service, and $900 when waiting orders; which was agreed to.

Mr. WATMOUGH moved to strike out "six," in the pay of chaplains, and substitute "eight" hundred dollars.

Mr. REED suggested that the expenses of the chaplain were equal to those of any other officers.

Mr. WISE suggested that the chaplains ought to be discontinued or sufficiently paid.

The amendment was then agreed to: Ayes 79.

Mr. MANN then moved to strike out the clause respecting chaplains; which was negatived.

The next amendment, which changes the name of "schoolmaster" to that of "professor of mathematics," was agreed to.

The amendment concerning secretaries and clerks being read,

Mr. WISE moved his amendment to this clause.

Mr. WATMOUGH stated one or two reasons why this amendment should not be adopted.

Mr. WISE then withdrew his amendment, at the suggestion of Mr. Watmough, to be renewed in a subsequent part of the bill.

Mr. MANN moved to strike out the clause concerning second masters. Negatived.

The amendment offered by Mr. Wise to the clause relating to the passed midshipmen was negatived.

Mr. WISE moved to strike out the clause concerning warrant masters' mates; which was negatived.

Mr. WISE moved the amendment he had previously withdrawn, concerning clerks, increasing their compensation.

Mr. WATMOUGH said it had been deemed expedient not to touch these classes, which opened the door to an increase of the pay of a large and meritorious class of artisans.

The motion was negatived.

Mr. WISE moved to strike out the clause concerning boatswains, gunners, &c., and to insert his amendment raising their compensation, and including an armorer.

Mr. WATMOUGH stated that the committee had not neglected this most meritorious class, but had raised their compensation. The committee and himself had

been particularly anxious to cherish this very valuable class of men.

Mr. REED stated what were the duties of these officers, in order to show that they were meritorious and responsible.

Mr. WISE said that, if the amendment was negatived, the fate of the bill would be periled.

Mr. McKENNAN hoped that the House would not be deterred by the threat that the bill would be lost. He would do his duty, let the fate of the bill be what it might.

Mr. WATMOUGH expressed a hope that the amendment would not be adopted.

Mr. WISE advocated his amendment, expatiated on the merits of those officers, and disclaimed any disposition to menace the committee.

On motion of Mr. WARDWELL, the committee rose: Ayes 50, nays 47.

The House then adjourned.

THURSDAY, DECEMBER 23.

GENERAL LAFAYETTE.

Mr. HUBBARD, from the select joint committee appointed to consider and report what measures were necessary to give effect to the resolutions adopted at the last session, for paying suitable honors to the memory of General Lafayette, reported certain joint resolutions, (for which see Senate debates of this date;) which were twice read, and ordered to be engrossed for a third reading.

ADJOURNMENT.

Mr. BEATY offered the following joint resolution:

Resolved, &c., That the President of the Senate and Speaker of the House of Representatives be, and they are hereby, authorized to adjourn their respective Houses, from the 23d day of December instant, to Monday the 29th instant.

Mr. WATMOUGH moved to amend the resolution, by striking out the 23d and inserting the 24th.

Mr. POLK believed, he said, that an adjournment over of the two Houses of Congress, by joint resolution, was unprecedented; and he knew of no reason whatever why, on this occasion, we should depart from the usual course. He moved to lay the resolution and amendment on the table.

Mr. WARDWELL called for the yeas and nays on the motion, and they were ordered.

The question being taken, it was determined in the affirmative: Yeas 149, nays 28.

FRENCH RELATIONS.

Mr. FOSTER said he had offered, some days ago, a resolution calling on the President for any information, not incompatible with the public interest, in respect to our relations with France. He had consented that the resolution should lie on the table, in the expectation that the information would be furnished through the Committee on Foreign Affairs; but, as it had not been furnished, he now asked the House to consider the resolution.

Mr. WAYNE asked the gentleman to suspend his motion for a day or two, until the Committee on Foreign Relations had had a meeting.

Mr. FOSTER assented, and withdrew the motion.

PAY OF OFFICERS OF THE NAVY.

The House resumed, in the Committee of the Whole on the state of the Union, (Mr. BRIGGS in the chair,) the consideration of the bill to regulate and equalize the pay of the officers of the navy.

The question being on the amendment offered by Mr. WISE for increasing the allowance proposed in the bill as the pay of the gunners, boatswains, carpenters, sailmakers, and armorers, while on shore.

Mr. WATMOUGH proposed to the gentleman from Virginia to modify his motion so as to insert, after the words "ship of the line and frigates," 750 dollars, and in the 140th line strike out "five hundred," and insert "six hundred," and let the pay in time of absence stand as it does.

Mr. WISE said his object was to improve the pay of those officers who were on leave of absence. He considered the gunners, boatswains, armorers, sailmakers, carpenters, &c., as highly responsible officers, and these men insist they could not live with their present compensation. He would not, therefore, assent to the modification proposed.

Mr. REED said the carpenters, sailmakers, &c., were always wanted on board of the ship, and could seldom have leave of absence.

The armorer, he did not think, ought to be put on the same footing with the gunner, as his duty was much less important. As to the gunners, he thought they should be well paid, in order to induce competent men to enter the service. As an instance of the responsibility of the office of gunner, he mentioned that the loss of the steam ship Fulton, with forty lives, was the consequence of the intemperance of the gunner. He was in favor of the proposition of the chairman of the committee.

Mr. WISE replied, and urged the claims of the armorer to the compensation proposed in the amendment.

Mr. WATMOUGH hoped the committee would not longer dwell on this point, and he was willing, he said, to submit the question to the decision of the committee without further debate.

After some remarks from Mr. HANNEGAN,

Mr. REED asked for a division of the question.

Mr. SUTHERLAND spoke very earnestly, and at some length, in favor of the amendment.

Mr. BURGES remarked that it seemed to have come to us, all at once, that the generals are nothing without the soldiers, and admirals nothing without sailors. But, in our zeal to distinguish the carpenters and sailmakers, we appeared to forget the rest of the nine hundred men who form a ship's complement. He proceeded to argue that the carpenters and sailmakers, while on shore, were not entitled to receive so much more than they could earn at common wages, in the sailmaker's loft and the carpenter's shop, as journeymen. He was willing that, while at sea, they should receive 800 dollars; but, on shore, he thought 360 dollars was quite sufficient; for all they would have to do to make up the deficiency between the reduced pay and the sum allowed them while on duty, would be to go into the shop or loft they had left, and earn their nine shillings a day. It was not so with the gunner and boatswain, for they were always required on board the ship, and he was willing to allow them the full sum proposed in the amendment.

Mr. REED said the Secretary, in his report on this subject, made very little provision for these men while they were at home, allowing them only one or two hundred dollars a year, and yet he was, no doubt, anxious to do full justice to them all. The gunner, boatswain, and sailmaker, could not be spared from the ship a day.

Mr. BATES would like, he said, to know whether the proposition met with the approbation of the officers of the navy. They were the best judges in the matter, and his vote should be governed by their opinion.

Mr. WISE said he had conversed with many officers of the navy on the subject, and they were all in favor of this proposition. In fact, it came from them. It was their amendment.

Mr. FERRIS spoke in reply to the remarks of the member from Rhode Island, [Mr. BURGES,] and in favor

of the amendment. After calculating the expenses of the family of the petty officer, he argued that the proposed allowance was not too high.

Mr. BURGES repeated, in reply, that he was in favor of allowing the full sum proposed to these men while they were on duty. The whole humanity of gentlemen terminated, he said, with the sailmakers, &c., while the seamen, who were the bulwarks of the navy, were left to find a home, while on shore, where they could. It cost as much to support a sailor with his family, in a city, as it did the carpenter or the sailmaker.

After some explanations from Mr. FERRIS,

Mr. WATMOUGH said there was one point in this matter which had been kept out of view. The committee were extremely desirous not to go so far as to hazard the bill, while they provided well and amply for each grade in the service. In reference to these men, the bill makes an addition to their pay of about $400 a year. Another point to which he wished to draw the attention of the House was the principle recommended by the Department, as material to the efficiency of the navy, of making a difference between the pay of officers while on shore and at sea. The House, he hoped, would decide the question and proceed with the bill.

After a few words from Mr. WISE, Mr. WATMOUGH, and Mr. REED, the question was taken on that portion of the amendment which relates to the pay of the boatswains and gunners, and determined in the negative: Ayes 28.

The question was then taken on the remaining portions of the amendment, relative to the pay of armorers, sailmakers, &c., and determined in the negative, without a count.

Mr. MANN offered an amendment which, he said, would afford gentlemen, who were so anxious to raise the salaries of some of the officers of the navy, an opportunity to extend their liberality to the men. He moved an amendment allowing an extra compensation of three dollars a month to the pay of the sailors.

Mr. WATMOUGH said the bill already allowed, virtually, an addition of three or four dollars a month to their pay, by a new regulation of the purser's department.

Mr. CAMBRELENG asked if there was any provision, by law, fixing the pay of the sailors in the naval service?

Mr. WATMOUGH replied that there was not. It was a matter of regulation. Sometimes, especially in time of war, sailors could not be enlisted without paying them twenty dollars per month.

Mr. WISE moved an amendment providing that officers on foreign stations should have fourteen rations a day; which was agreed to.

Mr. GILLET moved an amendment providing that no officer of the navy should have any additional allowance for disbursing money for the Government for travel, transportation, quarters, or for the transportation of specie or other merchandise; and that no officer should have other pay than what is allowed by this bill.

Mr. WATMOUGH said the amendment was incongruous in itself; that it included some provisions already made in the bill, and excluded others which were indispensable to the interests of the service. He hoped the House would reject the proposition.

Mr. GILLET said he wished to know, and that the public should know, exactly what was paid to the officers of the navy, and all other officers. He was opposed to the allowance of extra pay, by which it was rendered impossible to ascertain what they received. He was quite willing to pay the officers well, but he wished to know what he was voting to pay them.

After some remarks from Mr. WATMOUGH,

The motion to amend was rejected.

Mr. GRENNELL moved an amendment increasing the pay of the clerks of the navy yards. The office, he said, was a very responsible one; to prove which he referred to the case of a clerk at the navy yard at Charlestown, who committed a fraud on the Government to the amount of sixty or seventy thousand dollars, and was arrested just as he was about to depart for Europe. He moved to strike out $900, and insert $1,100, as the pay of the clerks.

The motion was rejected.

Mr. PARKER moved to strike out the second section of the bill.

After a few words from Mr. WATMOUGH, the motion was rejected.

Mr. J. Y. MASON moved to amend, by striking out the words "and relatives," in the 12th line.

Mr. WATMOUGH stated the design and intention of the law; and, after some conversation between Messrs. MASON, CAMBRELENG, REED, FILLMORE, and WATMOUGH, the clause was amended, by striking out the word "relatives," and inserting "unmarried sisters and widowed mothers."

Mr. PARKER made some remarks in opposition to the second section of the bill, but made no motion to strike it out, that motion having already been rejected.

On motion of Mr. WATMOUGH, the third section of the bill was stricken out.

Mr. JARVIS moved an additional section to the bill, providing that prize money should be, hereafter, distributed in proportion to the pay of each individual in the navy: which was agreed to.

The bill having been gone through with, the committee rose and reported the bill to the House.

On motion of Mr. WATMOUGH, the bill, as amended, was ordered to be printed.

The House then adjourned.

WEDNESDAY, DECEMBER 24.

TERRITORY OF WISCONSIN.

The SPEAKER presented the following memorial, being the same as that presented by Mr. LYON, of Michigan:

EXECUTIVE OFFICE,
DETROIT, *December* 12, 1834.

SIR: In obedience to a request of the Legislative Council of the Territory of Michigan, I have the honor to transmit to you a memorial of that body, praying the establishment of a separate territorial government for the district of country west of Lake Michigan.

I have the honor to be, very respectfully, your most obedient servant,

STEVENS T. MASON.

Hon. JOHN BELL,
Speaker of the H. R. United States.

To the Senate and House of Representatives of the United States in Congress assembled:

At an extra session of the Legislative Council of the Territory of Michigan, held on the first Monday of September last, pursuant to an act of Congress of the 30th of June, 1834, an act was passed to provide for the taking a census of the inhabitants of that part of the Territory of Michigan which is situated to the eastward of the Mississippi river. This duty has been performed by the sheriffs of the several counties, under oath, and nearly in the same manner as that which has been heretofore adopted by the general Government to obtain an enumeration of the citizens of the United States. The population is found to amount to ninety-two thousand six hundred and seventy-three souls. The counties situated

upon the peninsula, and those lying north and west of Lake Michigan, contain the following numbers:

Wayne,	16,638	Jackson,	1,865
Washtenaw,	14,920	Berrien,	1,787
Oakland,	13,844	Calhoun,	1,714
Monroe,	8,542	Branch,	764
Lenaive,	7,911	Michilimacinac,	891
Macomb,	6,055	Chippewa,	526
Cass,	3,280	Brown,	1,957
St. Joseph,	3,168	Crawford,	810
Kalamazoo,	3,124	Iowa,	2,633
St. Clair,	2,244		

In this enumeration, the inhabitants of the country which is situated between the Mississippi and Missouri rivers, and which was, for the purpose only of temporary government, attached to the Territory of Michigan at the last session of Congress, are not embraced. They may be justly estimated at from five to eight thousand souls. The population of Western Michigan (now generally known as the Wisconsin Territory) may be stated at from twelve to fifteen thousand. And we would again respectfully ask of your honorable body to hear their complaints, and to grant to them speedily the relief for which they pray. The country inhabited by that people has been subjected, at various times, to different Governments; but, on all occasions, the promise seems to have been held out to them, that their subjection to those Governments should be but temporary. So remote, indeed, have been the seats of those Governments, that it is believed neither the laws of the United States, nor of any Territory, actually had force west of Lake Michigan, until after the year 1820. About that time, a justice of the peace or notary public might be seen claiming and exercising his office there under a commission from the King of France.

The inhabitants between Lake Michigan and the Mississippi have almost every year, since their subjection to the Government of Michigan in the year 1818, complained to Congress of the great evils under which they were suffering in consequence of this connexion. They are separated from the great majority of the inhabitants of the Territory by one of the largest lakes upon this continent; and it must obviously be very difficult, if not impracticable, to communicate with them during one-half of the year. Their pursuits in life are also as widely different as their habitations are distant. It is supposed that a very large proportion of the country which lies between Lake Superior, Green Bay, and the Fox, Wisconsin, and Mississippi rivers, must continue for many years, as it is now, the hunting grounds of uncivilized Indian tribes.

South of the Wisconsin river, and within this Territory, and also in the counties of Dubuque and Demoine, west of the Mississippi, are situated the very extensive and valuable lead mines of the United States. The miners are the immediate tenants of the Government, pursuing a very laborious and hazardous business, and paying their rent to it as to a landlord. It is presumed they are, for these reasons, entitled to its special attention and protection. They compose more than two-thirds of the population of that part of the Territory, and they reside upwards of six hundred miles (some as much as nine hundred miles) from the seat of territorial Government. The judiciary system in that section of the Territory, likewise, is so weak and inefficient that the laws afford little or no protection to the virtuous, nor does their prompt and energetic administration deter the vicious. It is feared by that people that these, and even greater, evils are about to be entailed upon them and their country, for ever, by the formation of a State Government by the eighty-seven thousand two hundred and seventy-three people inhabiting the peninsula of Michigan, and the counties north of the peninsula, for the whole of the Territory which lies north of the line drawn east through the southerly bend of Lake Michigan.

It is to this unnatural union, so prejudicial to the best interests of the inhabitants of Western Michigan, and destructive to their rights as American citizens, your memorialists would respectfully call the attention of your honorable body; and they do respectfully ask, on behalf of the citizens of the whole Territory, that Congress will, at its present session, establish a territorial Government for the citizens inhabiting the Territory lying west of a line drawn through the middle of Lake Michigan to the northern extremity, and thence north to the boundary line of the United States.

Your memorialists respectfully refer to the act to provide for taking a census of the inhabitants of Michigan, passed by the Council, September 6, 1834, together with the aggregate returns of the census taken under the said act, copies of which said documents, duly certified by the Secretary of the Territory, are herewith presented to your honorable body.

Resolved, That his excellency the acting Governor be, and he is hereby, requested to transmit copies of the preceding memorial to the President of the Senate, the Speaker of the House of Representatives, and to the Delegate in Congress from this Territory.

JOHN McDONELL,
President of the Legislative Council.

JOHN NORVELL, *Secretary.*

COUNCIL CHAMBER,
DETROIT, *December* 12, 1834.

The memorial was referred to the Committee on the Territories.

Mr. REYNOLDS offered the following resolution, which under the rule lies one day:

Resolved, That hereafter, in all elections made by the House of Representatives for officers, the votes shall be given *viva voce*, each member in his place naming aloud the person for whom he votes.

Mr. WARD moved (by consent) that when the House adjourn, it adjourn to Saturday next, at 12 o'clock.

On this question Mr. BEATY asked for the yeas and nays; but the motion was not seconded by the House.

Mr. CHILTON then moved to amend the motion by substituting Friday for Saturday.

This was also negatived, and the motion of Mr. WARD was agreed to.

MEMORY OF LAFAYETTE.

The joint resolution yesterday reported by Mr. HUBBARD, from the joint committee on the subject of the measures to be taken in honor of the memory of Lafayette, was passed, and sent to the Senate for concurrence.

NORTHEASTERN BOUNDARY.

The following resolution, offered yesterday by Mr. LINCOLN, of Massachusetts, was taken up for consideration:

Resolved, That the President of the United States be requested to lay before this House (if in his opinion it is not incompatible with the public interest) any communications which may have been had between the Government of the United States and that of Great Britain, since the rejection by the former of the advisory opinion of the King of the Netherlands, in reference to the establishment and final settlement of the northeastern boundary of the United States, heretofore in controversy between the two Governments.

And that he also be requested to communicate any information which he may possess of the exercise of practical jurisdiction, by the authorities of the British province of New Brunswick, over the disputed territory,

within the limits of the State of Maine, according to the true line of boundary as claimed by the United States, and especially upon that part of the territory which has been incorporated by the Government of Maine into the town of Madawaska, together with such representations and correspondence (if any) as has been had by the Executive of that State with the Government of the United States, on the subject.

Mr. PARKS, of Maine, said that, as the resolution was one particularly interesting to the State of Maine, and as no member of the delegation from that State, in either branch of Congress, had thought it necessary to call for information on that subject, he asked the honorable gentleman from Massachusetts what was his object in making the call, and more especially as regarded what was embraced in the last two parts of the resolution.

Mr. LINCOLN said that he had not anticipated that there could be any possible objection to the resolution. He certainly had not offered it without believing that a useful object was to be attained. He could not consent to the prejudice of having it supposed, for a moment, that he would either do himself the injustice, or offer the indignity to the House, of proposing the inquiry suggested in the resolution, without a proper and reasonable motive. He should, therefore, most cheerfully, in response to the call of the member from Maine, [Mr. PARKS,] endeavor, in a brief, and, as he hoped, not unsatisfactory manner, to explain the objects of the resolution.

The State of Massachusetts, said Mr. L., has a very deep and especial interest in the subject to which the resolution refers. As one of its Representatives, he should feel that, in this interest, there was a sufficient apology, if any was needed, for the measure he had proposed. It is a fact too well known to the gentleman himself and to the members of the House, to need (said Mr. L.) my information, that, by the act of the ancient Commonwealth giving her assent to the separation of the territory now constituting the State of Maine, and its erection into an independent State, the wild and uncultivated lands of that territory were to be the common property of the two Governments. The quantity of these lands did not vary far from five millions of acres, one moiety of which, in common and undivided with Maine, by the terms of separation, incorporated into and made part of the fundamental law of that State, remained to Massachusetts. Over a great portion of these lands, by a monstrous pretension of the British Government, under the definitive treaty of peace of 1783, which defined the northern and northwestern boundary of the United States, an adversary claim has, within a few years past, been extended.

By the fifth article of the treaty of Ghent, provision was made for the settlement of this boundary, and, pursuant to a convention subsequently entered into, the controversy concerning it was submitted to the arbitrament and decision of the King of the Netherlands.

[Here Mr. L. went into a history of the negotiations and conventions which had been had on the subject of the boundary.]

The next question in issue between the parties was the true position of the highlands, which should limit a due north line from the source of the river St. Croix, and satisfy the language of the treaty of 1783, and to define and mark upon the face of the country, by reference to natural appearances and monuments, this line, was the only purpose of the submission. His Majesty the King of the Netherlands entered upon the duty of arbitrator, under the terms of the submission, and, after an examination of the subject, being unable, or affecting to be unable, from the documents and arguments presented to him, to decide the matter in dispute, he substituted, for an adjudication upon the question referred to his decision, a proposition of his own for the establishment of a new line of boundary between the two countries. Instead of the highlands which divide the waters of the Atlantic from those of the St. Lawrence, as described in the treaty, he advised the adoption of the depths of the channel of a river, or, in his own more princely phraseology, "the thalway of the stream of the waters of the St. John's," as the future limits of the possessions and jurisdiction of the respective Governments.

Mr. Speaker, (continued Mr. L.,) the communication of this result of the arbitrament was received with a burst of surprise, indignation, and apprehension, both in Massachusetts and Maine. The Legislature of each State passed resolutions remonstrating to the general Government against its acceptance. Maine, in a more especial manner, adopted the most strenuous efforts to resist it. In the imposing attitude of her State sovereignty, she sent a special commissioner, clothed with almost plenipotentiary powers, to the Government of Massachusetts, inviting and soliciting her co-operation to defeat or resist, as occasion might require, the injustice and violence of the proposition. The earnest remonstrances of the State Governments reached the national councils, and, influenced by these or other considerations, the Senate of the United States, on the 23d of June, 1832, adopted a resolution which was decisive of the rejection of the opinion of the arbitrator. I beg leave of the House to read this resolution:

"*Resolved*, That the Senate advise the President to open a new negotiation with His Britannic Majesty's Government, for the ascertainment of the boundary between the possessions of the United States and those of the King of Great Britain, on the northeastern frontier of the United States, according to the treaty of 1783."

It is worthy of special notice and consideration, that a resolution reported by the Committee on Foreign Relations, in the following words: "That the Senate advise the President to express to His Majesty the King of the Netherlands the assent of the United States to the determination made by him, and consent to the execution of the same," had been previously rejected, by the decisive majority of 35 to 8 votes, in that body.

Such, sir, was the state of this much vexed subject in June, 1832. And what is the state of it now? The President, in his annual message at the commencement of the present session, informs us that "the question of the northeastern boundary is still pending with Great Britain, and the proposition made in accordance with the resolution of the Senate, for the establishment of a line according to the treaty of 1783, has not been accepted by that Government."

A negotiation pending! And to what end? If the proposition, in conformity with a resolution of the Senate, has not been acceded to, has it been rejected? Is the Government negotiating for any other line of boundary than that described in the treaty of 1783? No other, give me leave to say, will ever be acquiesced in by the States. I claim no authority to stand here in vindication of the rights and honor of the State of Maine. These are in better keeping. The honorable gentlemen who represent her on this floor will do her ample justice. But if I know any thing of the character of the hardy and industrious citizens of that State, and I think I am not altogether ignorant in this particular, for they are "bone of our bone, and flesh of our flesh," they, no more than the people of Massachusetts, will consent to the sacrifice of their interest in this valuable property. Now he (Mr. L.) wished to know wherefore the proposition to negotiate for the settlement of the boundary, according to the treaty of 1783, had not been accepted, and what was the alternative to its rejection. What was Maine to do? And what was to be the part of Massachusetts? The Government of the latter State

had given a solemn pledge to the former, that she would stand by her to the last in maintaining this right of property; that, come what might, happen what would, she would never consent to the surrendering of the jurisdiction over it, which she had guarantied by consenting to the act of separation; and this pledge, he (Mr. L.) felt well assured, would, at every hazard, and in all time, in good faith, be held sacred.

But (said Mr. L.) the passage, in the very brief allusion made to this most important subject, contains the following expression: "Believing that every disposition is felt, on both sides, to adjust this perplexing question to the satisfaction of all the parties interested in it, the hope is yet indulged that it may be effected on the basis of that proposition."

Now, sir, I wish to be informed on what this hope of the President rests? What reasonable expectation may be indulged that the British Government will do that hereafter, which for nearly three years past it has refused to do? It is of the utmost importance to the people of both States, that this controversy should be speedily terminated. The existence of it has once threatened the peace of the nation; and, give me leave to say, that these States will not be content much longer that the question shall remain unsettled.

It may be considered, Mr. Speaker, that to Massachusetts this is a matter only of property and pecuniary interest. Be it so; even in such point of view it would not be a subject of indifference. Her surveys have been arrested and her sales limited by the pending controversy. A few years since, in common with Maine, she was opening roads, running out townships, and offering for sale large portions of the now disputed territory. Suddenly her operations were interrupted by collisions with British officers, and, in respectful deference to the earnest desire of the national Government, she consented to suspend the exercise of her possessing rights, pending the arbitrament of the boundary.

To the State of Maine the subject must be vastly more important. The unsettled state of the question not only affects her revenue from sales of the lands, but arrests the progress of population and improvement. These lands are among the most desirable for settlement. In the quiet enjoyment of them Maine may look forward to no distant day, when, in numbers and resources, she will be in the front rank of the family of States. Deprived of this territory, she is but of third rate importance among her sisters of the Union.

Under these circumstances, think you, sir, the States will rest satisfied with longer forbearance? If I know any thing of the people, they will not blindly submit to the contingencies of unrestricted nor the delay of protracted negotiation. The Legislatures of the States are soon to convene: the subject cannot fail to be with them one of the most earnest and solicitous concern. They will have a right to know what is the prospect of an amicable determination of the boundary; and it is for the purpose of furnishing this information, among other proper motives, that the resolution has been offered.

But it is not merely in this limited and partial view of State interests that the subject-matter of the resolution is to be regarded. It has respect to the integrity of the territory and the sovereignty of the jurisdiction of the country. It reaches to the relations of the general and State Governments, and the guarantee of a republican form of government to the enjoyment of all the citizens. The inhabitants of the disputed territory are American citizens. They were born under our laws, acquired the title to their possessions under grants from the State Governments, and are entitled to the rights, and privileges, and protection, of freemen. On this debatable ground, these very citizens have been molested in their persons and property by the officers of the provincial Government of New Brunswick. Their substance has been seized for taxes to the British Crown, and their names enrolled for service in the British local militia. The history of the arrest and imprisonment of Baker, in the common jail at Fredericton, not many years since, must be familiar to the gentleman from Maine, and to the members of this House. Still more recently, the inhabitants of the town of Madawaska, incorporated by the Government of Maine, and acting under the authority of their incorporation, in attempting to organize their municipality, have been seized upon a charge of sedition against His Majesty's Government, and made to suffer the penalty of the transgression. It has been farther represented, I know not how truly, that the British jurisdiction is now extended and practically enforced over a great portion of the disputed territory, in manifest intervention of an express stipulation that neither party, during the attempt at the adjustment of the boundary, should do any act to the prejudice of the rights of the other.

And are not these things matters worthy of inquiry? Is any gentleman in this House well advised of all the facts in the case? Sir, they concern the whole nation. American citizens are not thus to be transferred to a foreign jurisdiction, and degraded from the proud pre-eminence of independent freemen to the servile condition of vassal subjects. Again, I say, if this controversy be not speedily adjusted, the peace of the country will be put in jeopardy; the States will reassert their possessive rights; surveyors will again be sent forth into the territory; and, if collisions shall ensue, it will behoove this Government to see that the rights of her citizens be well maintained in the conflict.

The resolution embraces three propositions—

1. The communication of such correspondence as has been had, since the rejection of the opinion of the King of the Netherlands, between the Government of Great Britain and that of the United States, on the subject of the boundary, as, in the opinion of the President, may not be incompatible with the public interest to make public.

2. The President is requested to communicate any information he may possess in relation to the exercise of practical jurisdiction over the disputed territory. He (Mr. L.) had been informed that the British laws were enforced against the inhabitants dwelling on the debatable ground, while any exercise of authority was denied to officers acting under a commission from the State of Maine; and,

3dly. The resolution asked for the communication of any representations which may have been made by the Government of Maine to the general Government, touching this matter.

Here was the most authentic source of intelligence; and the reply to this part of the inquiry must be of the most satisfactory character. The resolution had been drawn up with every feeling of respect towards the Government, and in all sincerity (said Mr. L.,) I can conceive of no possible objection to sending it to the President, for the exercise of his discretion, in furnishing or withholding the information which was sought.

Mr. PARKS, in reply, said that the House would by this time perceive that the resolution of the gentleman from Massachusetts was of a most extraordinary character, and the reasons he had assigned for bringing it forward were, he must say, equally extraordinary. The gentleman gives as his reason why he interferes in a question touching the jurisdiction of another State, that Massachusetts, a part of which he represents on this floor, is interested in the property or ownership of the territory in dispute between the State of Maine and the United States on one side, and Great Britain on the other. It was true that, when Maine determined to

assume the rank of a free, sovereign, and independent State, she was compelled by her kind guardian mother, Massachusetts, to pay well for her liberty, to purchase her freedom at a high price, by assenting that Massachusetts should be the owner with her in common of the wild lands, then undisposed of, within her territory; but she did not grant to Massachusetts any jurisdiction over the same. Maine will always recollect these circumstances. The last the gentleman from Massachusetts seems to have forgotten, for he now comes forward to ask, as he is pleased to say, as a member from Massachusetts, interested in the property, to inquire whether the jurisdiction of Maine has been infringed upon, exhibiting a kind, parental solicitude, as if she had no one on this floor, or in the other House, to watch over her honor or protect her rights; and this, too, without any instructions from Massachusetts to move at all in the matter. If Massachusetts believes that Maine has violated her faith, pledged to her by the solemn act that effected the separation, let her, as a State, call on Maine as a State, each in their sovereign capacities, for a breach of that compact, (for by that compact alone has she any right of ownership in the territory in question,) and with that compact this federal Government has nothing to do. When Maine fails to fulfil any of her obligations, then she will have a right to complain, and to take such measure, as a State, as she may think advisable; but even then she will have no right to come here for redress. The State of Maine is not to be called to the bar of this House to answer for her conduct to Massachusetts. I aver that the gentleman, in the capacity in which he makes this call, viz: as a Representative of Massachusetts, has no right, on this floor, to interfere with the question of jurisdiction of Maine within her own limits. Thank God, the time has passed by when she has any legal right to interfere in our internal relations, or external either, excepting such as may regard our engagements with herself. But further, sir, if she desires information upon this matter, she has the materials for it within herself. She has but to call upon her own land agent, and she will get information much more correct and accurate than can be possibly in the possession of any department of this Government. Her land agent traverses every portion of our extensive forests, without let, hindrance, or control; he has as many deputies as he chooses to employ, and the honorable gentleman, from the official situation he has for so many years held as the Governor of Massachusetts, must know full well that no individual in this nation has more information upon that branch of his inquiry than the gentleman who so honorably and faithfully fills the office of her land agent. But, sir, the honorable gentleman goes further: he calls for any correspondence that may have taken place between the Government of Maine and the Government of the United States, upon this same subject of jurisdiction, and this, too, as I understand, likewise in his capacity as a member from Massachusetts. To this I answer, that to Massachusetts she is not accountable for any thing that may have taken place between her, as a State, and the general Government. Whenever Massachusetts, as an individual owner of certain real estate within her limits, is injured by any act or conduct of hers, then she, like all other individuals, may seek her remedy from that State; but she must recollect she is but an individual proprietor, having a stake in the soil, and the soil only.

But, sir, let us suppose that the gentleman quits the position he assumed, as calling for this information as a member from Massachusetts, and that he calls for it in his relation as the representative of a part of the people of the United States on this floor, should it be granted? Neither of the members from Maine have desired it; nay, the honorable gentleman confesses that he did not consult any one of them upon the subject; neither has the Executive desired it, either for its own justification or any other purpose. Neither of the parties interested, and only interested, have made any request on the subject; and yet the gentleman from Massachusetts, out of his abundant regard and solicitude for the interests and honor of Maine, (for I can see no other reason,) wishes to know whether the jurisdiction of Maine has been infringed upon, and desires to see (if any) what correspondence has taken place between her and the general Government on the subject. Sir, it seems to me that such curiosity, in a stranger to the parties, is improper, if it is not officious. Sir, I do not object to this resolution because I fear that in any manner it will, if passed, implicate the honor of the State which, in part, I represent on this floor. I expressly disavow any such feeling. So far as the honor of the State is concerned, I should be perfectly willing to have every act done, every word written, and every thing proposed or intimated by that State, laid open to the world. I fear not that she would suffer by it. I object solely for two reasons: in the first place, that if, as from the President's message, a hope remains of a peaceable adjustment of this perplexing question, a full answer to the resolution would not do good, but might do harm; and, secondly, because the call, coming as it does, is derogatory to the State, and to its members upon the floor of this and the other House, and among whom are some of the gentleman's most ardent political friends. I do not understand from the gentleman that he contemplates any legislative action of this House upon the subject; nor, indeed, can I well see how any can be had. If any communications have taken place between the Government of Maine and the general Government, it must be in the character of the latter, as general guarantee to the individual States of their rights and territory, and to the Executive, in his capacity as a component part of the treaty-making power, through which all attempts at a peaceable adjustment of this controversy must be had. Does this House seek to intrude itself upon that power, and appropriate to itself rights which, by the constitution, are secured to different branches of the Government? But, sir, I principally oppose the resolution because uncalled for, as it is, either by the Executive Government on the one hand, or the State on the other. This House ought to have too much respect for the rights of States to countenance this attempt of the gentleman from Massachusetts, the more especially as, from his own statement, he does not make the call in his capacity as a legislator of the Union, but as a member of Massachusetts; which State, from common civility to her sister State, should have made the call, if necessary, directly upon her. I warn this House to be careful how they justify this course—how they approbate this precedent. I ask, what would have been the language of Georgia, for example, if, contrary to either her wishes or those of the general Government, the correspondence of her Executive with the Executive of the Union had been called for by a member from a different State, wholly uninterested in the matter; what would have been the feelings of that State, or of any other State in the Union? I say that a precedent for this call, made in this manner, cannot be found in the whole legislative history of this country; and I again warn the real friends of State rights how they countenance it. It is derogatory to every member of both Houses of Congress from Maine, because it virtually premises that they are forgetful of her honor and interest—

[Here Mr. LINCOLN disavowed any intention of arraigning Maine, or of interfering in any way with her honor or interest.]

I am well aware, Mr. Speaker, that the honorable gentleman expressly disavows any such intent, and I am

not the less aware, sir, that such is the inference that must be drawn from the resolution, viz: that the members from Maine are derelict to her honor and interests, and that they have to take wing and lodge themselves under the protecting and fostering care of Massachusetts. The gentleman says, "Would to God I could speak for Maine on this floor." Mr. Speaker, I well know that Massachusetts has a strong desire to take the benighted people of Maine under her care and protection, and that nothing prevents but the indifference of the people themselves to profit by so high an honor. I should have thought, sir, but for the resolution of yesterday, that the people of the State which the gentleman represents must by this time have learned, by the frequent rejection of their kind offices, and more particularly by the events of the last summer, that the people of Maine consider themselves as of age, and abundantly capable of forming their own opinions on public matters, protecting their own rights and honor, and securing her own best interests. The gentleman says the honor of Maine is not in his hands. True, sir, it is not. It is here in the hands of her Senators and Representatives; and when they shall prove recreant to, or insufficient for, the task confided to them, she will recall them, and either send others better fitted for the trust, or, perhaps, call on the gentleman from Massachusetts for aid.

Mr. Speaker, I again repeat that I do not oppose the passage of this resolution because I fear that any developments that might be made would compromit the honor of my State. I believe it is "above fear and above reproach;" if not, then let her suffer for it. But, sir, I oppose it as setting a precedent injurious, as I believe, to State rights, and as being an unauthorized interference in the affairs existing between one of the sovereign States of this Union and the general Government, which will tend strongly, to say the least, to destroy all that parliamentary courtesy which ought ever to exist on this floor, between the representatives of the people of different independent communities.

Mr. EVANS said the present debate had come upon him altogether unexpected; and although he was surprised that it had extended so far, he would, nevertheless, venture to prolong it by a few remarks. The resolution submitted by his honorable friend from Massachusetts, [Mr. LINCOLN,] whether for good or for evil, was introduced wholly without any knowledge or agency on his part. The first he heard of it was when it was read by the Clerk yesterday, and he had thought no more of it until he saw it in the papers this morning. It had never, for an instant, occurred to him that it would meet opposition from any quarter, or elicit discussion; and he had, therefore, hardly bestowed a thought upon it. I am now, sir, very much surprised at the objection taken by my honorable colleague, and at the reasons upon which it is founded. What is the resolution? Certainly it is sufficiently guarded in its language. Itasks for nothing which the President, in his judgment, may deem incompatible with the public interests to communicate. It seeks to draw out no disclosures which may have an injurious influence upon the question pending between us and Great Britain, in relation to the northeastern boundary. No harm, therefore, can, by possibility, result from the adoption of the resolution. It will bring to light nothing which can prove detrimental to our public interest. If there be such information in the possession of the Executive, it will be withheld. Now, sir, for one, I am very solicitous to get at the information which this resolution seeks.

The question in issue between the two countries is of deep importance to Maine; one in which that State justly feels a high degree of solicitude. As a citizen of that State, and as one of its Representatives here, I desire to know something of the present posture of the question. In what position does it stand? What are the obstacles to its adjustment? What progress towards a settlement of it has been made? And what sort of a settlement is in contemplation? I feel, sir, that I should be able much better to discharge my duty to that State—to guard its interests more vigilantly, and to warn it of approaching danger, if danger be ahead, with this information in my possession, than I am without it; and I have no doubt, sir, that my honorable colleague himself would also be somewhat more competent to fulfil the trusts committed to him. Of that, however, he is the judge. I seek for knowledge on this subject. Light, sir; give us light. But no, says my honorable colleague, give us no light—no information. I don't wish to know what has been done—what is being done—or what is to be done. Settle the controversy as you please, I seek not to know in what way—I am satisfied. This is the doctrine of my colleague; and here, sir, I take the liberty to differ from him; and I confess I am surprised that he is willing to fold his arms and sit in quiet, neither desirous to know himself, nor willing any body else should know, the true state of the question, deeply important as it is to the State we both represent.

But notwithstanding this, sir, I confess I am quite indifferent to the passage of the resolution, because I feel well persuaded that it will bring no answer; no other answer, I mean, than that it is not compatible with the public interests to communicate the information solicited. There is a mystery and concealment hanging over this subject, which I am quite sure will not yet be dissipated. Very little is known in relation to it, generally, in Maine; and, unless my colleagues are much more fortunate than I am—perhaps they are, sir—nothing is certainly known by its Representatives here. This is not the condition, in my judgment, in which this important question should be permitted to rest. I want information upon it, for our guidance here. I want it for the consideration of the Government of Maine. I want it for the people—the people of Maine—for I can appeal to the people, too, sir, sometimes, as well as my honorable colleague. But, sir, he objects to this resolution because it comes from Massachusetts. It is derogatory to Maine, he says, that a subject interesting to itself alone should be moved by the member of another State. When Maine needs the aid of Massachusetts, and finds itself incompetent, with its two Senators and eight Representatives, to take care of its interests, it will ask for it; but at present it does not thank Massachusetts for its interference. Why really, sir, I think my colleague rather too sensitive upon this point. I do not perceive in what respect this is derogatory to Maine. I cannot, for the life of me, understand how it is that we are insulted. Only convince me of it, sir, and I promise my colleague I will resent it as stoutly as any body. But, indeed, I cannot find it in my heart to go to war with the old Commonwealth, for any thing which I now perceive in the case. Possibly, too, sir, there may be some "reprisals" in such a war. Massachusetts, as it has been already said by the mover of this resolution, has a deep interest in this question of boundary. One-half of the territory in controversy, a large and valuable tract, belongs to that Commonwealth. The property of the State is in peril. Now, although this property may be situated within the limits, and under the jurisdiction, of Maine, can any thing be more reasonable or proper, than that Massachusetts should desire to know in what way its domain is likely to be disposed of or affected? I think it is not only the right, but the duty of a faithful Representative of Massachusetts, if he deem its interests in jeopardy, to call for this or any other information relating to the subject, which may enable him to protect its rights. True, says my honorable colleague, Massachusetts has an interest in the question, so far as property is con

cerned, but how did she become possessed of this property? What that has to do with the subject now before us, I hardly can conjecture; but he proceeds: Maine was obliged to buy its freedom from Massachusetts, by giving up one-half of its public lands. The parent Commonwealth held us in rigid servitude, and compelled us to purchase our liberty. Indeed, sir! This is very new to me. According to my recollections, it is now near fifteen years since the separation of Maine from Massachusetts took place. It had long been in agitation. The terms of the separation were fixed and adjusted by the then Legislature of Massachusetts, in which Maine was fully and ably represented, according to its population. It had its just weight in that Legislature. The public property of all descriptions was divided in certain proportions between the two States. Maine gave nothing to Massachusetts for its freedom, for it had nothing to give. All the public property belonged to Massachusetts, of which Maine was a part, and of course had a just claim to a part of the common fund. Massachusetts gave Maine its freedom, and with it its proportion of the family inheritance. The terms were submitted to the people of Maine, and they determined, by a large vote, to accept the propositions contained in the act of separation. This is a history of the matter, and I have never, until this day, understood that the terms were considered harsh or onerous in any quarter. To be sure there was a considerable party in Maine opposed to the separation. They were very desirous to remain under the control and guardian care of Massachusetts, which my honorable colleague so much deprecates and reprobates now. They were very desirous of retaining the power and political standing which then existed in Massachusetts, in the same hands which held it. Does my honorable colleague know of any such?

[Mr. PARKS said, Yes: many such.]

Yes, sir, and so do I. I am not altogether certain, sir, that my honorable colleague was not one of them himself.

[Mr. PARKS. No, sir. I was opposed to the separation, it is true; but not for such reasons. I opposed it because I thought the terms in relation to the division of the lands and other property unjust.]

Very well, sir. I did not know the motives which influenced my honorable colleague, and I spoke with caution. The error, if I fell into one, was very natural. I knew that a political party, then largely in the minority in Maine, but largely in the majority in Massachusetts, opposed the separation for the reasons I have indicated. I knew that my colleague then belonged to that party, however much it may be reprobated now; and knowing that my honorable colleague, to whatever party he may happen to belong, is a thorough-going party man, never lagging behind, sir, I very naturally concluded that he went the whole with his party on that occasion. But he says no, and I will certainly not do him the injustice to suppose that he is not correct in his recollection. But my colleague says that this interference on the part of Massachusetts is impertinent and unsolicited. Does my colleague recollect what has occurred between the two States before upon this subject? Let me refresh his memory. From the very beginning of the controversy, in relation to the boundary, Maine has constantly solicited the aid and co-operation of Massachusetts. She has always regarded the parent Commonwealth as having a joint interest with herself. Repeated resolutions of the Legislature of Maine, year after year, have been transmitted to Massachusetts, invoking its assistance. Not only so, sir, but some two years ago, when it was supposed our interests were in the greatest peril, Maine asserted, through its Legislature, certain doctrines, denying to the general Government the power to accept the award, if award it can be called, of the King of Holland, and threatening resistance. It sent these proceedings, by a special envoy, to the sovereign State of Massachusetts; and so ably was Maine represented at that court, so clear and so just were its doctrines demonstrated to be, by the able negotiator, that Massachusetts, through its Legislature, sustained all the principles set up by Maine, reasserted in the strongest terms the rights of the two States, and promised to stand by Maine, then and in all time to come, through thick and through thin, in its impending controversey with the general Government, or with Great Britain. The negotiator returned to Maine, with great honors for his success, undoubtedly well deserved. My honorable colleague, sir, certainly cannot have forgotten this, for he was himself the envoy on that momentous occasion. Now, sir, with what justice can Massachusetts be reproached, and by my colleague, too, for an unauthorized interference in the affairs of Maine? Maine has, from the origin of this difficulty, looked to Massachusetts for aid, and has felt strengthened and encouraged by its assistance; and this is the first day, the very first, that Massachusetts has been subjected to reproach or rebuke for standing up in defence of the interests of Maine.

[Mr. PARKS explained. He did not reproach Massachusetts for standing up for the interests of Maine, but for interfering when it was not for the interests of Maine.]

I do not know, sir, that the explanation is material or improves the case much. It is a matter of opinion. I think the information sought for is important to the interests of Maine. I feel it to be so. My colleague thinks otherwise, and he rebukes the member from Massachusetts for seeking to do us a good turn, because, in his opinion, it is not essential to our interests. But, sir, my colleague takes particular exception to that part of the resolution which calls for any correspondence between the Executive of Maine and the general Government, upon this subject. This, he says, is to arraign "the free, sovereign, and independent State of Maine," at the bar of this House, to answer to Massachusetts. I hope Maine is guilty of nothing that she cannot answer for; but I can suppose a case—mere supposition, sir—in which I think Massachusetts would be well justified in desiring to know something of the movements between these two Governments. If Massachusetts has reason to believe, or even believes without good reason, that a negotiation is going on, or has been concluded, by which Maine is to surrender its right and territory to the general Government, to be transferred to Great Britain for an "ample indemnity" to be paid to Maine, a regard for its own interests would justify, nay, imperiously require it, to lose no time in bringing to light the secret movements. I do not know that this has occurred, or will occur. I hope it has not. I put it only by way of illustration. But I must nevertheless say, sir, that there is a good deal of concealment, by the authorities of Maine, upon this subject. Maine has had her ministers plenipotentiary here also—three of them—what was done has never transpired. The minority of the Legislature of the State have made various efforts to draw out of the executive arcana, information on this topic, but always without success. Impenetrable darkness covers it. I do not wonder, sir, that Massachusetts feels some solicitude, and would like to break through this cloud. My colleague farther says, no legislative action is intended to follow this resolution. How does he know that, sir? I take it that will depend, or may depend, upon the information which we may receive. Suppose it should turn out that Great Britain is pushing its possessions farther and farther—occupying important positions—harassing our citizens, and in various ways jeoparding our interests, may it not happen that Congress will think it expedient to au-

thorize the President to adopt some countervailing measures for our security and protection—to make "reprisals?" Before we can say that no legislative action is intended, let us see the true state of the case.

The next objection of my honorable colleague is contained in the question which he asked, Would you invade the treaty-making power? Well, sir, I understand by this, that he considers the settlement of this boundary question properly to belong to the national Government, under the authority which it has to make treaties with foreign Powers. I think so too, and I am very glad of the concurrence and aid of my colleague on this part of the subject.

Some seven or eight years ago I had the duty, almost, if not entirely, alone, to advocate this doctrine in the Legislature of Maine, and I did it at the cost of no little reproach by the political friends of my honorable colleague. The distinguished gentleman from Massachusetts [Mr. ADAMS] was then at the head of the national Government. A presidential election was pending, and a very great excitement was produced in Maine against the administration, upon the ground that it was unjustly jeoparding the interests of Maine, by negotiation for a settlement of the controversy by umpirage; all other means having failed. The doctrine of my honorable colleague and his party then was, that the national Government could do nothing under the treaty-making power, except to procure from Great Britain a recognition of the line, as we claimed it, without the consent of Maine. The submission to an umpire was regarded as an infringement of the rights of Maine. The treaty-making power did not go so far then as it has done since. The powers of the national Government were much more limited then, in the opinion of some gentlemen, than they are discovered to be now. If the subject belongs to the treaty-making power, it belongs to it unreservedly, and is not dependent upon the consent of any State, or any department, and I am glad at this late day of the support of my colleague to the principles I advocated so long ago.

[Mr. PARKS. I do not mean that the treaty-making power authorizes the Government to cede away any part of Maine, any more than it would to cede away the whole of Virginia. It only authorizes it to settle the true line, according to the treaty.]

Certainly, sir. That is the true doctrine. I never contended, and nobody ever did, to my knowledge, that the national Government had a right to cede a portion of any State to a foreign Power. The administration which preceded the present expressly disclaimed it. The treaty-making power, then, we agree, is competent to settle the question, "Where is the true line of boundary, according to the treaty of 1783?" The party doctrine, I have already said, in Maine, did not go this length. It did not admit the power of the national Government to settle, in any way, a line different from what Maine herself asserted and declared to be the true one. Maine said, (I mean the dominant party,) "here are my limits; now, under the treaty-making power, you may settle the question that these are the true limits; but if you settle any other to be the true line, you then violate our sovereignty, and cede away our territory, and we are not bound by it." That was the doctrine then, sir.

[Mr. PARKS explained. What I mean is, that the treaty-making power is the channel through which the settlement is to be made.]

Undoubtedly. That is what I mean. I do not perceive that the explanation alters the case at all. The national Government, "through the channel" of the treaty-making power, if my colleague will so have it, has the right to settle where the line established by the treaty of 1783 in fact is; and, wherever it is found to be, there the limits of Maine extend, and no farther. This is all I ever contended for; but this power was denied to the administration of the gentleman from Massachusetts, and great excitement grew out of it. Times alter, sir; and with them, men and principles. The excitement had its day, and perhaps accomplished all the objects intended by it. It has lulled and died away, and there is perfect calm now, an apathy, in Maine, upon this subject. Although we have had no minister at the court of St. James for near three years to take care of our interests, Maine makes no complaint. Indeed, I do not know but she ought to feel grateful; for I recollect that a distinguished gentleman from Virginia—yes, sir, Virginia—was nominated to this mission, expressly, as was said in Maine, with a view to this question—I believe, sir, upon the recommendation of some of the Representatives from that State. Admirably qualified, no doubt, from his residence, and personal interest and information on the subject, to guard the rights of Maine; but unfortunately, sir, he was not confirmed, and Maine seems satisfied that no other person should be nominated or appointed.

My honorable colleague regards this subject, in the whole course and tenor of his remarks, as one in which Maine alone is interested, and alone to be consulted, or as having a right to move in its consideration. I protest, sir, against this narrow view of the question. I regard it as one in which the whole Union are interested. Great principles, interesting to all, are involved. Important interests of the whole are pending, and I call upon all to stand by, not the interests of Maine alone, but their own interests. The territory, indeed, is within the limits of Maine; but is it not, therefore, within the limits of the Union? Does it not repose under the protection of the national arm? I wish members from all sections of the country to understand this subject as one interesting to themselves, and I recognise the right of every one of them, from whatever quarter, to interfere, and to call for information relative to it. I claim that it is a national question, touching our interests and our honor, and I will not have it, if I can prevent, narrowed down to a mere question of property between Maine and Great Britain. Sir, I want these documents for the information of other sections and other members, as well as for Maine, and I call upon them to feel an interest, as members of the Union, in protecting the rights of the Union. It is not as a mere Maine question that it is to be regarded; if it were, I should despair of it; but I put it on higher grounds. Sir, I have said more than I intended, and I leave the subject.

Mr. LINCOLN rose to claim the indulgence of the House, in reply to the remarks of the member from Maine [Mr. PARKS] who had first addressed the chair. In answer to the call of that gentleman, he had stated the motives which had influenced him to offer the resolution, and the object which he hoped to attain by its adoption. The extraordinary, and, as it seemed to him, unwarranted comments, somewhat of a personal bearing, made by the honorable member, now required his (Mr. L's) notice. He had said, in answer to the call of the member, that the interest of Massachusetts in the property involved in the boundary question, would alone be a sufficient reason for the inquiry which he proposed; but he had also distinctly added that it was not the only reason, and he had endeavored, within the comprehension of the honorable member, as he had hoped, to assign other and still higher motives for the adoption of the resolution. The subject, Mr. L. said, was, indeed, one of great importance to the interests of Massachusetts; and from the relation which he had had the honor to sustain to the people of that State, to which the member had been pleased to refer, as well as from his present position on this floor, as one of their Representatives, he should be faithless to his duty, and to the

trust which had been reposed in him, if he did not find in that interest a sufficient motive to action on this and every other occasion, both here and elsewhere, whenever and wherever it could be promoted.

The honorable member objected that neither himself nor his colleagues were previously consulted. True, Mr. Speaker, continued Mr. L., I did not ask permission of the member to offer the resolution, nor, to my inexperienced observation of the course of proceedings here, was I under any obligation to consult him, or any other member, as a precedent right to the favorable attention of the House to any proposition which I might think proper to submit. Perhaps, admonished now by the reproof he had administered—perhaps, I may hereafter be more considerate. This much I promise, said Mr. L., before I offer another resolution, which may affect the over-sensitive feelings of the honorable member, that I will reflect more seriously upon my duty in this particular.

Again: the member complains of the resolution as an intermeddling, on the part of Massachusetts, with the concerns of Maine. "Massachusetts," cries the honorable member, "is not the guardian of the rights of her sister State. Maine is the keeper of her own honor." Certainly, sir; and I expressly disclaimed any intention to represent the one or the other on this occasion. I said that these were in better hands—those of the able and faithful Representatives from that State on this floor; and I did, indeed, expect that they would have been asserted and maintained by the gentleman himself in this very matter. But he has thought proper to evade the whole subject of inquiry, and, instead of enforcing the interest of his State in the speedy and rightful decision of the boundary question, he has contented himself with suggesting unworthy motives for a supposed interference in it by others.

But the member asks, "what has Massachusetts to do with the practical jurisdiction over the disputed territory?" Indeed, sir, does the gentleman, a lawyer too, need to be informed that the exercise of this practical jurisdiction by the British Government is the very cause of prejudice to the property of Massachusetts; and I add, also, even upon the peril of the gentleman's further displeasure, to the rights and honor of Maine? It is the substance and gist of the whole complaint. This practical jurisdiction denies not only the possession of the lands to the States, but impeaches their title to the property. A mere theoretic, diplomatic, paper discussion of unfounded pretensions would be utterly disregarded. It is the actual exercise of foreign jurisdiction, the operation of British laws over the persons and property of American citizens dwelling upon the territory, which constitute the grievance. It was this practical jurisdiction which tore John Baker from the bosom of his family, and consigned him, for no crime but a denial of allegiance to the British Government, to a prison in His Majesty's province of New Brunswick.

It was this jurisdiction which has conflicted with and excluded the jurisdiction of the State of Maine over the same territory, which has resisted and recalled the authority of the Legislature of that State in the incorporation of the town of Madawaska, and seized and punished those who, in pursuance of a positive act of legislation, attempted the organization of that corporation, thereby depriving American citizens of the right of representation, and compelling their submission and allegiance to regal authority. Finally, it was this practical jurisdiction, exercised by a foreign Government, which suspended the surveys and sales of the lands, the common property of both States, interrupted the progress of public improvement, and arrested the population and settlement of the country. And does the member now seriously demand of what concern is all this to Massachusetts? There was a time when even that gentleman thought it no interference on the part of Massachusetts to express the deepest interest in the subject—when he was the honored instrument of the councils of his own State, to invoke no equivocal manifestation of that interest—when Massachusetts was solicited not to speak out merely, but to stand side by side, shoulder to shoulder, with Maine, in somewhat vigorous measures, if there should need be, in this matter. Truly, the gentleman is not yet to be instructed in the principles of law applicable to the rights of the States. How does the possession of the property in the States comport with the claim to jurisdiction set up by the British Government? Is not the right of jurisdiction commensurate with that of property? And in what manner can there be a peaceable enjoyment of the one against the practical exercise of the other? Does the gentleman not know that the question of jurisdiction, in this case, involves the question of property? How can Massachusetts exercise her right to the soil while the jurisdiction is with Great Britain?

I leave these questions to his reflection, or for his more leisure examination, when he shall lay aside the perplexing office of the politician, and return again to the duties and books of his profession.

But, demands the honorable member, "why go to the President for the information sought by the resolution?" "Why does not Massachusetts apply to her own land agent for the facts which exist?" My first answer is, that, in respect to the first member of the resolution, the only source of information is in the President himself. He alone can furnish the communications which have been had with the British Government on this subject; and it is respectfully submitted, in the resolution, to his discretion, to comply with the call, if the public interest will permit. In reference to the information to be obtained from the land agent, he is not in possession of that which is wanted. If, as the gentleman asserts, he traverses the country at all, it is in darkness and by stealth. His presence, even as an officer of the State, upon the disputed territory, would be offensive to the British authorities, and subject him to the inconvenience, which he once but narrowly escaped, of a forced visit to Fredericton, to answer to a charge of sedition against the lawful Government of the province. Besides, the character of the land agent is certainly subordinate. He is but a ministerial officer, charged with a limited and special service. The gentleman well knows, or ought to know, that from him no precise information, touching the points of inquiry suggested by the resolution, can be obtained.

I seek to learn (said Mr. L.) how far the British jurisdiction has been practically extended, and that of the United States, and of the State of Maine, been excluded; and where, and to what degree, American citizens have been molested in their persons and property, under color of British authority. This information the land agent cannot possess, and, if he did, it could be of no use here. It would not be information for this House. Nor would the gentleman's proffered alternative of a recourse to the councils of Maine better serve the purpose of the inquiry. Has the honorable gentleman so soon forgotten what followed the extraordinary mission to Massachusetts, to which allusion has before been had? I will not charge to his agency the subsequent measures of the Government of that State. But I doubt not his privity with them all. Sir, the faith of the ancient Commonwealth had hardly been pledged to Maine, at her earnest solicitation, in resistance to the adoption of the opinion of the King of the Netherlands, when the Legislature of that State closed the doors of her legislative halls, and, under an injunction of secrecy upon her members, with purposed concealment from her friend

and ally, she truckled and trafficked for the surrender of the territory, for an equivalent to herself elsewhere. True, the bargain was not consummated, but her own lofty pretensions of regard for the rights of State sovereignty, and the inviolability of the integrity of her territory, were lost sight of; her solemn pledges to Massachusetts forgotten; the interests of the latter State disregarded, and the feelings of her people outraged. In all this Massachusetts can find little encouragement to seek the means of self-protection in further communications on this subject with her sister State. But let not the honorable member take alarm, lest I intend by the resolution to lift the veil from the concealments of that day. No, sir; neither his diplomacy nor the secrets of legislative bargain-making, the proposed terms for the transfer of the country, nor the proffered inducements to the sale, pecuniary or political, are sought to be exposed by the resolution. The gentleman need feel no solicitude on this subject. The respect I cherish towards the State of Maine would for ever debar me from opening to this page in her history. The resolution confines the inquiry to a period subsequent to these events. It asks only for communications since the rejection of the advice of the King of the Netherlands.

A charge of most extraordinary character is made by the honorable member against the State of Massachusetts. He complains that Massachusetts imposed hard conditions as the price of her consent to the act of separation, exacting one-half of the uncultivated lands of Maine for the purchase of her freedom. I shall not, sir, (said Mr. L.,) notice the harsh and offensive terms in which this charge is uttered. But, surely, I must say, it is now for the first time, after a lapse of more than twelve years, that such a complaint against the parent State has been publicly heard, and I rejoice to believe that the gentleman is the only individual by whom it will ever be repeated. Massachusetts unjust and oppressive to her sister State! The whole territory was hers, both in jurisdiction and property. In the possession of these, she was one of the largest and most important States in the Union. The separation of the District of Maine, and its erection into a separate State, was a question of dismemberment, of consent to be curtailed in population and resources one-third, and in extent of territory, and the means of future greatness, two-thirds of "her fair proportions." With an unexampled disinterestedness, with a noble liberality, which, in all subsequent times, in the official papers of Maine, the speeches of her first Governor, equally enlightened and devoted to her interests, and the official communications of all his honored successors, have been gratefully acknowledged, Massachusetts consented to the sacrifice. Owning all, she yet, by the articles of separation, voluntarily yielded to this new member of the national family one-half of the property in the uncultivated lands, and divided with her, about in the proportion of population, all her personal funds. And was this an unconscionable bargain, alike derogatory to her own character and unjust to the rights of Maine? How does the objection sound within these walls? When the United States, by the votes of Congress, erect a Territory into a State, and admit a State into the Union, what disposition is made of the unappropriated lands? Are they surrendered to the new State, or are they reserved, not a moiety, but the whole, to the United States? This reference may satisfy the gentleman that he has taken a false view of the subject, and induce him, I trust, to retract his ungenerous accusation.

But the gentleman, after all, professes to have but little objection to the adoption of the resolution, because, he adds, nothing will come of it. I pray by what warrant does he make this declaration? Who commissioned him to speak thus authoritatively in the matter? Does he mean that no information will be furnished upon the call, or does he rather intend, as he seems to intimate, that no measure will be proposed as the result of it? On this latter point he may not be the best advised. The character of the communications which may be received from the President will determine the occasion of any further proposition for the consideration of this House. If nothing is required, nothing will be asked for.

Mr. L. proceeded, at some length, to defend the resolution against the objections which had been particularly urged by the member from Maine, [Mr. PARKS.] He denied that it was disrespectful to that State, or was a gratuitous or "officious intermeddling" in her concerns. The call was neither unprecedented nor singular, as the gentleman had alleged. The resolution, in the first place, asked for no information which it would be incompatible with the public interest to have furnished. In the second place, it sought for such communication of facts, in an authentic and unquestionable shape, as may satisfy the parties interested in the property, of the prospect of its enjoyment, at the same time it should apprize this House, and the whole people, of the true state of a protracted national controversy.

I have already (said Mr. L.) greatly trespassed upon the indulgence of the House. It was not my intention to have brought on debate. It is the first instance, during the present session, in which a motion for information has been resisted; and I have been equally surprised by the objections, and the arguments by which they are attempted to be supported. In whatever view I regard the subject, it seems to me to be of great and universal interest. Compared with this, in its future probable bearings, the existing cause of offence with France is, to my mind, of minor importance. The indemnity for French spoliations is a measured and liquidated sum of money. It is limited by the amount of five millions of dollars. The controversy with Great Britain respects the right to five millions of acres of land, to become, at no distant period, of greater value than three times five millions of dollars. It involves, also, questions of national sovereignty and national jurisdiction, the rights of States, and the rights and privileges of freemen. It was, therefore, for the purpose of learning whether these various interesting questions are likely to be amicably adjusted, or to be made another occasion for national contention, that I offered the resolution, the disposition of which I now most cheerfully submit to the vote of the House.

Mr. FOSTER, of Georgia, said there was nothing which he would more cautiously avoid than an interference in a family quarrel; and he hoped he should not be suspected of any design to take sides in the misunderstanding which seemed to be growing up between the ancient and venerable Commonwealth of Massachusetts, and her promising, enterprising daughter, Maine. But as the Representatives from the State of Georgia had been, more than once, appealed to in the course of the debate, and as principles of great and general importance had been incidentally brought into the discussion, he trusted that he should not be considered an intruder in submitting a few remarks.

Mr. F. dissented entirely from the opinion expressed by his honorable friend from Maine [Mr. PARKS] that the Representatives of other States had no right to interfere in the question relative to the Maine boundary. If this was a matter in which that State was solely and exclusively interested, and if the Government of the United States had no concern with it, any inquiry touching it, or reference to it, here, would be obviously indelicate and improper; but this very controversy has been, if it is not now, the subject of negotiation between this Government and a foreign Power. The United States hav-

ing thus become a party, it is the right, and may become the duty, of every member of Congress to inquire into it. Without going into a particular enumeration of causes that might make the proposed inquiries proper, Mr. F. would mention but a single one. The resolution of the gentleman from Massachusetts proposes to request the President (among other things) "to communicate any information which he may possess of the exercise of practical jurisdiction, by the authorities of the British province of New Brunswick, over the disputed territory within the limits of Maine." Now, if it should turn out that there was this exercise of jurisdiction by the authorities of a foreign Government within the limits of one of the States of this Union, it was an interference not only with the regular operation of the State laws, but also of those of the United States. The federal courts, it would be recollected, have jurisdiction, limited to be sure as to the subjects, but co-extensive within the limits of the respective States. If, then, these courts have been ousted of their jurisdiction, even in a remote corner of one of the States, by the authorities of a foreign Government, some legislation may be necessary on our part to sustain the courts, and provide for the due execution of our laws.

In reference to that branch of the resolution which proposes to call for certain communications which may have passed between the Government of the United States and that of Great Britain, Mr. F. could see no possible objection to it. It is couched in terms perfectly courteous and respectful to the Chief Magistrate: it requests that the communications may be laid before the House, "if, in the President's opinion, it is not incompatible with the public interest." If, then, the resolution should be adopted, the President will consider whether the publication of the communications in question would be injurious to the public interest, and he would send or withhold them accordingly. This was left entirely to his discretion; and he was confident the gentleman from Maine would not hesitate to trust that discretion.

But, Mr. F. said, there had been introduced into this day's debate a subject much more deeply interesting to him than the mere call for information proposed by the honorable gentleman from Massachusetts. And he would candidly confess, it was a long time since he had listened to a debate in this House with so much interest, with such high gratification. Not only were sentiments expressed, but long-forgotten terms and phrases had been employed, which were most grateful to his ears. The honorable gentleman from Maine, in maintaining the rights of his State, had reiterated and repeated, in animating and cheering tones, and with marked emphasis, those significant and imposing terms, "this free, sovereign, and independent State." These words fell in harmonious and captivating strains on Mr. F's ear, and first attracted his attention to this debate; and he had heard, with proud satisfaction, the assertion and advocacy of principles so dear to him—principles which, on a former occasion in that House, he had endeavored to maintain.

Mr. F. said it would probably be recollected by some gentlemen present, that, in an humble effort which he made some two or three years since, in defence of the principles asserted and the rights exercised by his own State, he had occasion to refer to the course pursued by the States of Massachusetts and Maine, in relation to this very question of disputed boundary, and the treaty which had been made for its adjustment. He then adduced the resolutions adopted by the Legislatures of both those States, in relation to the treaty just referred to, to show their opinions as to the right of a State to declare acts of the federal Government unconstitutional and void. Those resolutions asserted, in the most unequivocal and unqualified terms, that the federal Government had no right to cede any portion of the territory of one of the States to a foreign Power, without the consent of the State; and that any act purporting to have that effect would be wholly null and void, and that neither the people nor Government of the State would be bound to submit to it. Here was a striking instance where a State had not only exercised "the right to judge" of the validity of an act of the federal Government, but in which she absolutely decided that the act was unconstitutional, and that it was not obligatory either upon the State or its citizens. Yet the same principle, when asserted in another State, a different name having been attached to it, has been denounced as a vile heresy. Yes, repeated Mr. F., the very principles so broadly and distinctly, and so far successfully, asserted by these highly respectable Commonwealths, Massachusetts and Maine, have been, under another name, rendered odious and trampled in the dust even in those States. Mr. F. knew it had been said that "the rose by any other name would smell as sweet"—and he had formerly been credulous enough to believe it; but it was a mistaken idea; it was mere poetry: there's magic in a name; and we have memorable proofs of the effects produced by the names, not only of principles, but of men. Mr. F. trusted, however, that neither the good people of Maine, nor their Representatives here, would be deluded, or driven from the position the State had assumed, by a false clamor: he earnestly hoped that they would not surrender or compromise the rights and interests of the State from the dread of being charged with supporting doctrines to which an unpopular name had been attached. Let them stand by their principles and their rights, and he, for one, and they would find many others, would stand by them. Mr. F. said the honorable gentleman from Maine on his right [Mr. Evans] had taken occasion to inform the House that he was a member of the Legislature of his State when this controversy relative to the boundary commenced, and when the principles afterwards imbodied in the resolutions which have been alluded to were first advanced there; and seemed to congratulate himself on the recollection of his having been in the minority in opposing those principles. Highly as Mr. F. esteemed the gentleman personally, he was rejoiced to hear that he was in the minority; and notwithstanding the air of anticipated triumph which the gentleman exhibited at the prospect of a change in public opinion, Mr. F. hoped he would be disappointed, and that unless he changed his own opinions he would remain in the minority on these great questions. And he repeated the hope that the State of Maine would remain firm, and not, by abandoning her principles, afford cause of triumph to her enemies, and of reproach to her friends.

But Mr. F. said he had been forcibly struck, and certainly very highly gratified, with a disclosure which had been made during this debate. We were furnished with a most interesting fragment of diplomatic history. It seems that when Maine—the sovereign State of Maine—had determined to resist the unconstitutional attempt (as she had decided it to be) of the United States to cede a part of her territory, she deemed it proper to advise with, and, if possible, procure the co-operation of her sovereign co-State, Massachusetts; and for this purpose she despatched a minister plenipotentiary, who was regularly "accredited" by the Government of Massachusetts, and negotiations actually opened, and successfully concluded—so far at least as relates to the adoption of the resolutions asserting the principles on which the State of Maine relied.

Mr. F. could but admire this dignified course, so well worthy the character of a "free, sovereign, and independent State;" and he no less admired the sagacity and

discernment displayed in the selection of the envoy, (honorable Mr. PARKS was the commissioner sent from Maine to Massachusetts,) while he took peculiar pleasure in congratulating the minister himself on the success of his mission. Mr. F. here remarked that the statement of this fact reminded him of another similar occurrence. It was scarcely two years since a commissioner was sent from another State of this Union to one of its sister States, on a mission of the deepest interest. [Alluding to the mission of the honorable B. W. LEIGH, from Virginia to South Carolina.] This mission, so honorable to the feelings which prompted it, as well as to the character of all concerned, was, in certain quarters, scouted and sneered at; indeed, it was a subject of constant ridicule.

How much the Old Dominion will regret that she had not then known of the precedent which this discussion has brought to light. Mr. F. hoped that these precedents would not be forgotten, but that the other States would profit by them. Let them remember that, for the adjustment of rights and interests not confided by the constitution to the federal Government, they have the same right to send ministers from one to another that the federal Government has to send a minister to France or England for the adjustment of our external relations. And Mr. F. delighted to contemplate this exercise of State sovereignty. There was an imposing dignity in this mode of communicating on extraordinary occasions between these sister republics.

Mr. F. had very unexpectedly to himself taken part in this debate, and had already said more than he intended, yet he could not conclude without again expressing the pleasure which the discussion had afforded him: he hailed with joy the light which had so suddenly broken in upon us; it was, he trusted, the precursor of a brighter day. The clouds which had for a while overshadowed us were passing rapidly away, and he congratulated himself, his friends, and the country, on the prospect of a speedy restoration of those principles which had been so triumphantly maintained in the better days of the Republic.

Before he sat down, Mr. F. begged once more to remind his friends from Maine of the elevated and delicate position now occupied by that State. She has taken high ground, and her rights and interests, as well as her principles and character, may depend on her maintaining it. She has already abundant cause to felicitate herself on the course she has pursued. But for the bold and decided stand which she took at the threshold of her controversy, encouraged and sustained by her venerable mother, Massachusetts, she would have been long since dismembered, and part of her territory would have been tamely surrendered to a foreign Power. Should she now relax or falter, this may yet be the case. Let her then look to this emergency, and be prepared to meet it. Let her plant herself on the broad basis of her original, inherent, and sovereign rights, and repeat to the federal Government that it has no right to cede one foot of her territory, and that she is resolved to preserve it entire and inviolable. And if the crisis should come, let her rely on her own sovereignty, and she will find it, as other States have already experienced, a protecting ægis—an impregnable tower—a strong and sure defence.

After Mr. F. had concluded,

Mr. GILLET said that, as there seemed to be some difficulty between the Representatives from Maine and Massachusetts, on this question, he would move to lay the resolution on the table.

Mr. GRENNELL called for the yeas and nays; which were ordered.

Mr. GILLET, however, withdrew his motion to lay the resolution on the table, and moved that the House should proceed to the orders of the day. The motion was negatived—ayes 65, noes 80—and the debate proceeded.

Mr. SMITH said, if he were influenced by the feelings, or some of the prominent considerations which had been expressed by his honorable colleague who had last spoken, [Mr. EVANS,] in relation to the resolution of the honorable gentleman from Massachusetts, he certainly could not feel justified in giving the vote which his honorable colleague had indicated that he should give, nor in entertaining the conclusions which he does upon this subject.

The House will remark, sir, that my colleague commenced his observations with an expression of entire indifference as to the fate of the resolution which the gentleman from Massachusetts has offered. Sir, were I indifferent to a resolution, involving matters of such vast importance to the people of Maine, being one of her Representatives, I could not vote in favor of it.

But the gentleman next said that he does not think any thing can come out of the resolution, if passed; that he has no idea that the Executive will answer it, or will answer it in any other way than by saying that he has no information that can be communicated relative to the subject-matter of this resolution, without prejudice to the pending negotiation. Sir, if I entertained this conviction, I certainly should feel myself warring with my sense of duty to vote in favor of the resolution. Why pass it with such an expectation?

Again, the gentleman says that he very much questions the propriety of the Executive's exposing the correspondence and other documents involved in the subject-matter of this resolution, at the present time, and while the negotiation is pending between this Government and Great Britain. Sir, could a better reason be given than such a conviction, to justify and demand that gentleman's vote against the resolution? I confess, I am unable to conceive of a stronger motive for opposing the resolution than the gentleman himself has thus avowed. And yet he expresses his determination to vote in favor, and advocates the adoption, of the resolution!

Sir, the gentleman has further told the House, and in this I think him correct to a considerable extent, that great apathy now prevails in Maine upon this subject. It is so, in one point of view. And is not this another most satisfactory argument against the adoption of the resolution? Why force such a call upon the Executive at this time, if the people themselves, who are immediately interested, are not anxious upon the subject? I repeat, sir, that, if I were governed only by the arguments which the gentleman's own remarks furnish upon this subject, I could not with him vote in favor of the resolution. But it is true, there is a degree of apathy in Maine, and with the people of Maine, upon this subject, at the present time. Sir, the people of Maine take a proper view of its situation. They consider it in hands which are bound to control it. They consider it as still under negotiation, and in a state of progression. And while it is so, they do not desire to interpose obstacles to its right termination, nor to prejudice its progress. My colleague, as well as the gentleman from Massachusetts, knows, that the negotiation upon this subject is still pending between our Government and that of Great Britain; for the fact has been so announced in the opening message of the President to Congress at its present session, and the gentleman from Massachusetts has read to the House that part of the message.

But, says my honorable colleague, [Mr. EVANS,] two years and a half have elapsed without any minister of this Government at the court of the British Government to attend to this negotiation. Sir, this is true. But, said Mr. S., I am greatly surprised that my honorable colleague should have mentioned this fact, either as a re-

proach upon the Executive of this nation, or a reason why this resolution for information should now pass. Whose fault has it been, let me ask, during these two years and a half to which the gentleman alludes, that our Government has been thus long without a representative in England? Has it been the fault of the Executive of this nation? or of the State of Maine? or rather, I should ask, has it been the fault of the people of Maine?

Does not my honorable colleague, as well as the honorable mover of this resolution, know full well that two attempts certainly have been made by the Executive of this nation to have our Government represented at the British court, and that it is no fault of his that the interests of Maine and Massachusetts have not been attended to there? Sir, let me tell my colleague, and this House also, that the people of Maine understand right well, and most correctly, as I believe, that the want of a national representative at the British court, on the part of our Government, during those two and a half years past, has operated as a most serious, if not principal, obstacle in the adjustment of this most important boundary question, in which Maine is so deeply interested. They understand, also, that, in this omission to be represented abroad, the national Executive is free of all blame, and that upon other heads the censure should fall.

Sir, continued Mr. S., I can see no practical good to be accomplished by this resolution. I am equally ignorant, with the mover of it, and with my colleague, of the nature of any information which the Executive can possess upon the subject, proper to be communicated to this House and to the public at this time. The negotiation is pending still. But the honorable gentleman from Massachusetts says that State is deeply interested in the negotiation; that Maine has heretofore sought the aid of Massachusetts in this matter, and that Massachusetts freely pledged herself to Maine, and most solemnly, to stand by her, and help her to maintain her rights in this controversy, at all times and under all circumstances. And the gentleman here declares that Massachusetts has been true to her pledges thus given, and he here renews those pledges of continued fidelity in every event to come.

And it is with reference to the alleged interest of that State in this subject, to her past pledges and support of Maine, and to her pledges of continued fidelity, he has offered a resolution calling for certain information touching the immediate rights and interests of Maine, without intending any disrespect to any one. This call is also made subject to the very proper condition, which I will regard as made in sincerity, that the President shall communicate only such information, if any, as cannot prejudice the negotiation that is now pending. Sir, all this implies a suspicion that there may be information possessed by the Executive upon the subject-matter of the negotiation which the President will think proper to communicate to this House and to the public at this time. I cannot conceive of its being so. I do not believe it is so. But as the gentleman from Massachusetts thinks otherwise, and is anxious to be informed how the fact is; as he alleges the deep interest of his State in the matter; as he has recapitulated her past pledges to Maine, and asserts her constant fidelity to them, and now renews them in the most solemn manner, to stand by Maine, in this controversy, under all circumstances; as he is willing to appeal to the discretion of the Executive upon the propriety of communicating at this time either more or less, or none at all, of the supposed information upon the subject; and as he (Mr. S.) also had entire confidence in the discretion of the President to communicate the documents sought, if any there be, or to withhold them, as the interests of Maine, Massachusetts, and the nation, may, in his opinion, require, he (Mr. S.) would, from these considerations alone, if the gentleman from Massachusetts persists in crowding his resolution upon the Executive at this time, vote for its passage. But, said Mr. S., I protest against the idea that there is any thing in the possession of the Executive in connexion with this matter that could, if all were made known to the world, do dishonor to Maine or to the national Government. The only reason existing at the present time, of which he could conceive, why the whole correspondence and documents relating to the matter might not be properly spread before this House and before the world is, that a negotiation upon the subject of them is still pending between our Government and a foreign Government, and that this negotiation may be greatly prejudiced by such a premature publication. In all other respects, I have no fears whatever. There is no concealment and no disguise upon the matter, which is not for the common benefit of all the States in the Union--all of which are interested in the pending negotiation.

As to the interference, sir, of Massachusetts with the affairs of Maine, and upon which one of my honorable colleagues has expressed himself in terms that he feels to be justly merited, I have not, said Mr. S., much of feeling. The contrary winds--the counter winds—the political trade winds of Massachusetts, which are felt occasionally sweeping over the affairs of Maine, like the counter and trade winds which are met with upon the natural ocean, serve a most salutary purpose. They admonish the yeomanry of Maine, with great accuracy, of the direction in which their true interests are to be pursued. And so long as Massachusetts will keep up this sort of interest, Maine will continue to be found, as she has been for years past, true to her real interests and principles. Sir, I am not sure, nevertheless, that there would not have been more propriety and more of honorable courtesy on the part of the gentleman from Massachusetts in this matter, if he had consulted with at least a portion of the delegation from Maine in relation to his resolution before having proposed it. I did suppose, sir, that the honorable gentleman could have found one, certainly, of that delegation, in whom he could have reposed confidence upon the matter. But even that one of my honorable colleagues entirely disclaims all knowledge of the honorable mover's intentions, before the resolution was offered; and the gentleman from Massachusetts admits, in fact, that he consulted none of the delegation from Maine in relation to it. To me, sir, it seems that, in a matter of this character, there would have been more of courtesy if the gentleman from Massachusetts had adopted a different course. I have not, however, on account of this, any strong feelings. But regarding the disposition and pledges of the State of Massachusetts upon this boundary question: regarding what she is said to have done, and is willing to do with Maine in relation to it hereafter--and altogether repudiating the idea that there is any thing in this whole subject-matter which need be concealed, except upon the ground that the negotiation upon it is still pending between our Government and Great Britain: regarding, moreover, the gentleman's assurance, which is very properly imbodied in his resolution, that he seeks nothing which the President may not deem altogether proper to be communicated at this time, I am willing, for one, that his resolution should pass.

Mr. EVANS said he did not perceive that any thing which had fallen from his colleague called very particularly for a reply. He could not, however, refrain from expressing his surprise that his honorable colleague had found fault with the reasons which he had assigned for wishing the adoption of the resolution. Considering, sir, that we are travelling the same road, and are both in favor of the resolution, I should suppose that my honorable colleague would have felt glad of my vote, as I certainly do of his, without stopping to quarrel with my

reasons for it. Why, sir, my reasons are my own, and are satisfactory to me, and doubtless his are the same to him. Nevertheless, he has analyzed them very minutely: and he says every one of them ought to lead me to vote against the resolution, as they certainly would him, if he entertained them. What are the reasons? First, that I was indifferent to the subject. I did say that I felt indifferent to the passage of the resolution, because I felt convinced that it would not bring the information. I was not indifferent as to whether we procured the information or not; I am earnest for that; but, entertaining so slight a hope of success, I am quite indifferent to the effort. Nevertheless, something may come of it. It may be worth the trial; but my colleague thinks where there is not much prospect of success, he would not only not make the effort himself, but would impede any body else who might be sanguine enough to undertake it. This is not my habit, sir; and, discouraged as I am of attaining any thing, I am willing to make the experiment.

Again: my colleague says I admitted that it might not be compatible with the public interests to furnish the information. Perhaps it may be so; but I do not know that it is, for the very reason that I do not know what the negotiation is. It is probable that a portion of the correspondence ought not to be made public, and that is not called for. But much of it, doubtless, may be communicated safely, and all may in confidence. If I cannot get the whole, I will take what I can get, and feel grateful for a little. But my colleague seems to say no; if I cannot have the whole, I would not ask for any. I may be allowed, too, to remind my colleague that the doctrine in Maine at the time of which I spoke, some seven years ago, was, that Maine was entitled, of right, to a knowledge of all the negotiations then pending; and there was a great hue and cry, because the then Secretary of State refused to furnish the Governor with the whole correspondence between our Government and Great Britain. The reason was the same then as now—"not compatible with the public interests." But that did not satisfy Maine, then highly belligerent. We have another Secretary now, sir, and Maine is pacific.

As to the concealment which has been practised by the Government of Maine in reference to its movements upon this subject, my colleague utterly denies it, and says there is no desire to keep it locked up from public examination. I am happy to hear it. I have hope of reaching something at last. My honorable colleague was a member of the Legislature of that State some two years ago, and he cannot have forgotten, I think, that a resolution was adopted calling for the report of the commissioners who were appointed to settle the controversy with the national Government, and that the Executive withheld the information.

[Mr. SMITH stated in his speech, in reply, that no such call was made, and Mr. EVANS then explained, and said he never felt more confident of any thing than that such a call was made. Possibly he might be in error; it might have been that the resolutions were moved, and voted down by the majority, a thing which sometimes happens here, and thus the responsibility was shifted from the Governor to the majority of the House. Possibly that was the case.]

We have endeavored, in every way possible, to get light upon this subject, but without success. My honorable colleague said, "the people of Maine took a right view of this question." Now, as my honorable colleague is supposed to imbody in his own person a considerable portion of "public opinion" in Maine, I thought we should have it.

The time has come, said I, for we have long desired to know what the people of Maine really did think about it. "They view it," says he, "in a state of progression." Indeed! What sort of progression? But that was all the information we got, sir, and so my high hopes have vanished. The apathy which I spoke of as existing in Maine, my colleague says, grows out of the confidence which the State has that the subject will be well managed by the administration of its choice. I think otherwise, sir. When excitement is necessary, excitement can be had; and when it is not deemed best to "embarrass" the general Government, by too close a scrutiny into its concerns, apathy can be made to prevail. My colleague understands how these things are done. Something was said by my honorable friend from Georgia, [Mr. FOSTER,] which will be heard with some astonishment in Maine. They will discover, sir, that they are rank "nullifiers," a doctrine which lately has been deemed very great heresy there. There was a time, sir, not many years ago, when that doctrine and the advocates of it, were quite popular in Maine. It was likely to get to be the politics of the State. I have some indistinct recollections—not very indistinct—of a certain speech of an honorable Senator from South Carolina [General Hayne] being printed and bound up, "as fine as gold and silk could make it," at the office of the leading press in the State, and transmitted with a highly complimentary letter to the distinguished author of it. I would not take "my corporal oath" that my honorable colleague over the way [Mr. SMITH] did not himself revise the proof sheets, or write the letter to which I have alluded. But, sir, times have changed. Nullification is dead there, sir—killed, to breathe no more. The proclamation came and swept it away like a tornado. There will be no more speeches printed on satin, nor bound in gold. But, sir, I leave nullification to my honorable friend from Georgia, and to my worthy colleagues.

Mr. SMITH said that there was only a remark or two of his honorable colleague to which he would advert. The gentleman says that there has been a desire on the part of the Governor and Council of Maine, and of some others, to conceal the proceedings which have been had in relation to this boundary controversy. The gentleman was very careful to say, or rather not to say, that the Governor and Council of Maine had ever been called upon to disclose any portion of those proceedings. According to my recollection, sir, (and I think my honorable colleague's recollection will confirm my own upon the subject,) the Legislature of Maine have never made a call upon the Governor and Council of that State to disclose any of those proceedings.

[Mr. EVANS here rose and said his recollection was not altogether distinct upon the subject, but he believed such a call had been attempted, and, if not carried, it was voted down by the majority with whom his colleague [Mr. SMITH] acted in the Legislature of Maine.]

Sir, continued Mr. S., my honorable colleague knows full well that the people of Maine have never called for such a disclosure of those proceedings. And whatever the Legislature of that State has done, and whatever those who have constituted that Legislature and the other official organs of the State, for years past, have done, in relation to this subject, has been most satisfactorily and triumphantly sustained by the people of the State; and it is manifest that if there has been any improper concealment in the matter, of which I know nothing, my honorable colleague's remarks of censure strike at the people themselves, and not at their immediate Representatives in the Legislature, whom they have sustained. Sir, I maintain that there is nothing for concealment in it, which might not be disclosed most creditably to Maine, if there were no negotiations still pending with Great Britain. Under any other condition of the affair, I could have no objection to spreading the whole of the proceedings of Maine, and of all connected with her in it, as well as those of the national Government, before this House and before the world.

When I addressed this House a short time since, I remarked explicitly that I repudiated the idea that there was any thing to be concealed at this time upon any other ground than the fear of prejudicing the pending negotiation. And I now say that, having entire confidence in the discretion of the Executive to determine rightly whether any information can be properly communicated at this time or not, and not fearing that any can be disclosed at any time discreditable to the State or nation, and regarding the alleged interests of Massachusetts in the subject, and her relationships to Maine in it, if the honorable gentleman from Massachusetts insists upon the passage of the resolution, I am willing, for one, that it should pass, believing that to be the most judicious course under the circumstances of the case as now presented.

Without coming to any decision on the question before it,

The House adjourned.

SATURDAY, DECEMBER 27.

Honorable ROBERT T. LYTLE, elected a Representative from the State of Ohio, to supply the vacancy occasioned by his own resignation, appeared, was qualified, and took his seat.

NORTHEASTERN BOUNDARY.

The House resumed the consideration of the following resolution, offered on Monday, the 23d instant, by Mr. LINCOLN:

"*Resolved*, That the President of the United States be requested to lay before this House (if, in his opinion, it is not incompatible with the public interest) any communications which may have been had between the Government of the United States and that of Great Britain, since the rejection by the former of the advisory opinion of the King of the Netherlands, in reference to the establishment and final settlement of the northeastern boundary of the United States, heretofore in controversy between the two Governments.

"And that he also be requested to communicate any information which he may possess of the exercise of practical jurisdiction, by the authorities of the British province of New Brunswick, over the disputed territory, within the limits of the State of Maine, according to the true line of boundary as claimed by the United States, and especially upon that part of the territory which has been incorporated by the Government of Maine into the town of Madawaska, together with such representations and correspondence (if any) as have been had by the Executive of that State with the Government of the United States on the subject."

Mr. PARKS said that he did not intend to take up the time of the House. He had risen merely to reply to one or two remarks which the gentleman from Massachusetts had made in regard to himself. He was not, as that gentleman had intimated, deputed as a commissioner, by the State of Maine, to solicit aid from Massachusetts. He went to Massachusetts as the bearer of a communication, and in no other capacity. Nor was it true that he had drawn up the report and resolutions which were adopted by the Legislature of Massachusetts on the occasion. They were drawn by a gentleman vastly more distinguished than he was, then and now a member of that Legislature. The gentleman from Georgia [Mr. FOSTER] had expressed great delight at the echo from Maine of State right principles; on that subject, Maine had never changed her principles, however some other States might have vacillated from one side to the other. If the gentleman could derive any satisfaction from the doctrines held by Maine, he was the last individual in the House who would attempt to deprive him of it.

Mr. GILLET moved to lay the resolution on the table.

Mr. GRENNELL asked for the yeas and nays on the motion, and they were ordered.

The question being then taken, it was decided in the negative, as follows: Yeas 77, nays 79.

YEAS—Messrs. John Adams, J. J. Allen, W. Allen, Anthony, Bean, Bockee, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carr, Casey, S. Clark, Clay, Day, Dickinson, Dunlap, Fowler, Fulton, Gillet, Thomas H. Hall, Halsey, Hamer, Joseph M. Harper, Hathaway, Henderson, Howell, Hubbard, Huntington, Inge, Jarvis, R. M. Johnson, Noadiah Johnson, Benjamin Jones, Kavanagh, Kilgore, Kinnard, Lane, Lansing, Laporte, Luke Lea, Thomas Lee, Loyall, Lyon, Lytle, Joel K. Mann, Manning, May, McIntire, McKay, McLene, Miller, Robert Mitchell, Morgan, Murphy, Parks, Parker, Pearce, Peyton, Pierce, Pierson, Polk, Reynolds, Schenck, Augustine H. Shepperd, Shinn, Standefer, W. Taylor, Francis Thomas, Thomson, Vanderpoel, Van Houten, Wagener, Ward, Wardwell—77.

NAYS—Messrs. John Quincy Adams, Heman Allen, Chilton Allan, Ashley, Banks, Barber, Baylies, Burges, Chambers, Chilton, Claiborne, William Clark, Clowney, Corwin, Coulter, Crane, Crockett, Darlington, Davenport, Deberry, Denny, Dickson, Evans, Fillmore, Foster, Philo C. Fuller, Gamble, Garland, Gholson, Gordon, Gorham, Graham, Grennell, Griffin, Joseph Hall, Hiland Hall, Hard, Hardin, Harrison, Hazeltine, Hiester, William Jackson, Ebenezer Jackson, Janes, William C. Johnson, H. Johnson, Lay, Letcher, Lincoln, Love, Lucas, Martindale, Moses Mason, McCarty, McKennan, Miner, Muhlenberg, Phillips, Pickens, Pinckney, Pope, Potts, Ramsay, Reed, Robertson, Slade, Sloane, Smith, Spangler, Stewart, Philemon Thomas, Tompkins, Trumbull, Tweedy, Vinton, Frederick Whittlesey, Williams, Wilson, Wise—79.

The question being then on agreeing to the resolution, Mr. REED asked the yeas and nays; which were ordered.

The question being taken, it was decided in the affirmative, as follows:

YEAS—Messrs. John Quincy Adams, Heman Allen, J. J. Allen, Chilton Allan, Ashley, Banks, Bates, Baylies, Briggs, Chambers, Chilton, Claiborne, W. Clark, Clowney, Corwin, Coulter, Crane, Crockett, Darlington, A. Davis, Davenport, Deberry, Denny, Dickson, Evans, Fillmore, Foster, Philo C. Fuller, Fulton, Gamble, Garland, Gholson, Gordon, Gorham, Graham, Grennell, Griffin, Joseph Hall, H. Hall, Hard, Hardin, Harrison, Hazeltine, Hiester, William Jackson, E. Jackson, Janes, W. C. Johnson, H. Johnson, Lay, Letcher, Lincoln, Love, Lucas, Manning, Martindale, Marshall, Moses Mason, McCarty, McKay, McKennan, Miller, Miner, Muhlenberg, Phillips, Pickens, Pinckney, Pope, Potts, Ramsay, Reed, Roberston, A. H. Shepperd, Slade, Sloane, Smith, Spangler, Stewart, Philemon Thomas, Tompkins, Trumbull, Tweedy, Vinton, F. Whittlesey, Williams, Wilson, Wise—87.

NAYS—Messrs. John Adams, William Allen, Anthony, Bean, Beaumont, Bockee, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carr, Casey, S. Clark, Clay, Day, Dickerson, Dunlap, Ferris, Forester, Fowler, William K. Fuller, John Galbraith, Gillet, Thomas H. Hall, Halsey, Hamer, Joseph M. Harper, Hathaway, Henderson, Howell, Hubbard, Huntington, Inge, Jarvis, R. M. Johnson, Noadiah Johnson, B. Jones, Kavanagh, Kilgore, Kinnard, Lane, Lansing, Laporte, Luke Lea, Thomas Lee, Loyall, Lyon, Lytle, Joel K. Mann, Mardis, May, McIntire, McLene, R. Mitchell, Morgan, Murphy, Parks, Parker, Patterson, D. J. Pearce, Peyton, F. Pierce, Pierson, Polk, Reynolds, Schenck, Shinn, Standefer, W. Taylor, Thomson, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Webster—79.

Mr. McKENNAN remarked that there was but a bare quorum in the House, and that this day belonged to a member from Ohio, [Mr. WHITTLESEY,] who was absent. He therefore moved that the House do now adjourn; but withdrew his motion at the suggestion of

The SPEAKER, who laid before the House the following letter from the Secretary of the Treasury.

TREASURY DEPARTMENT,
December 26, 1834.

SIR: In obedience to the first clause of the resolution of the House of Representatives passed on the 11th instant, directing the Secretary of the Treasury "to communicate to the House of Representatives, as soon as practicable, copies of the correspondence, not heretofore communicated, which had taken place between him and the president of the Bank of the United States, on the subject of the bank drafts," &c. I have now the honor to submit a copy of a letter on that subject received from the president of the Bank of the United States on the 28th ultimo, and the reply thereto by this Department on the 24th instant.

In order to make the contents of both more intelligible, and to include all probably embraced by the resolution, I have taken the liberty to precede them by a copy of the Treasury circular, issued by this Department on the 5th ultimo, and to which these letters so frequently refer, with a copy of the communication of that date, transmitting it to the bank.

I have the honor to remain, very respectfully, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

The Hon. the SPEAKER *of the House of Representatives.*

Which letter, and the accompanying documents, on motion of Mr. HUBBARD, were laid on the table and directed to be printed.

Mr. HUBBARD said this correspondence was of an important character; he therefore (by consent) moved that 10,000 additional copies be printed.

After some conversation between Messrs. HUBBARD, FOSTER, MARTINDALE, and GARLAND, the motion was, with the assent of the mover, laid over to Monday. This motion was subsequently taken up and agreed to.

The SPEAKER also laid before the House sundry other communications from the heads of Departments; all of which were referred and ordered to be printed.

FRENCH RELATIONS.

The following message was received from the President of the United States, by the hands of Mr. Donelson, his secretary, transmitting a report of the Secretary of State on French relations:

To the House of Representatives of the U. S.:

I transmit to the House a report from the Secretary of State, together with the papers relating to the refusal of the French Government to make provision for the execution of the treaty between the United States and France, concluded on the 4th of July, 1831, requested by their resolution of the 24th instant.

ANDREW JACKSON.

WASHINGTON, *Dec.* 27, 1834.

DEPARTMENT OF STATE,
WASHINGTON, *Dec.* 27, 1834.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 24th instant, requesting the President of the United States "to communicate to the House (if not, in his opinion, incompatible with the public interest) any communications or correspondence which may have taken place between our minister at Paris and the French Government, or between the minister from France to this Government and the Secretary of State, on the subject of the refusal of the French Government to make provision for the execution of the treaty concluded between the United States and France on the 4th of July, 1831," has the honor of reporting to the President copies of the papers desired by that resolution.

It will be perceived that no authority was given to either of the chargés d'affaires who succeeded Mr Rives to enter into any correspondence with the French Government in regard to the merits of the convention, or in relation to its execution, except to urge the prompt delivery of the papers stipulated for in the 6th article, and to apprize that Government of the arrangement made for receiving payment of the first instalment.

All which is respectfully submitted.

JOHN FORSYTH.

To the PRESIDENT *of the United States.*

On motion of Mr. FOSTER, the message and documents accompanying it were referred to the Committee on Foreign Affairs, and ordered to be printed.

On motion of Mr. CAMBRELENG, an extra number of ten thousand copies of the above documents was ordered to be printed.

On motion of Mr. REED, an extra number of five thousand copies of the report of the Secretary of the Treasury, in relation to the number and compensation of custom-house officers, was ordered to be printed.

The House adjourned.

MONDAY, DECEMBER 29.

VIVA VOCE ELECTION.

After transacting the usual morning business,

The following resolution, offered on Wednesday last by Mr. REYNOLDS, was taken up for consideration:

Resolved, That hereafter, in all elections made by the House of Representatives, for officers, the votes shall be given *viva voce*, each member in his place naming aloud the person for whom he votes.

Mr. REYNOLDS said that, as the House was very thin, he would move to defer the consideration of the resolution till Monday next, and to make it the special order for that day.

Mr. CLAY hoped that the gentleman would change the day, as the day named by him had been already set aside for another subject.

Mr. McKENNAN called for a division of the question. He had no objection to the postponement of the resolution, but was opposed to making it a special order.

Mr. REYNOLDS modified his motion, and the further consideration of the resolution was postponed to Tuesday week.

MEXICAN BOUNDARY LINE.

The following resolution, offered on Saturday last by Mr. BYNUM, was taken up for consideration:

Resolved, That the Executive be requested to cause to be laid before this House, as soon as practicable, such information in relation to the relative positions of the province of Texas, one of the United Provinces of the Republic of Mexico, and the Government of the United States of North America, as may be in possession of either of the Departments, not deemed incompatible with the interests of either of the two Governments; also, what progress has been made in distinguishing the boundary lines between this Government and the Republic of Mexico, which were to be run in conformity with the stipulations made and entered into between the Government of Spain and that of the United States, as ratified by the latter in Congress, on the 22d February,

1819. Also, whether if any subsequent relations have been entered into between the commissioners of this and the Government of Mexico, to carry into execution the conditions of the above-mentioned stipulations, posterior to the recognition of the latter Government as an independent Republic.

Mr. BYNUM said he had ascertained that most of the information called for in the resolution had already been communicated to Congress, and he therefore moved to lay it on the table; which was agreed to.

PAY OF OFFICERS OF THE NAVY.

The House proceeded to the consideration of the bill to equalize and regulate the pay of the officers of the navy, as reported to the House, with amendments, from the Committee of the Whole.

The first amendment, fixing the pay of senior captains, "at all times when in service, at 4,500 dollars, and when on leave of absence, or waiting orders, at 3,500 dollars," was concurred in.

The next amendment, which fixes the pay of all other captains, when commanding squadrons on coast stations, and when acting as navy commissioners, at 4,500 dollars; when commanding navy yards, 4,000 dollars; on other duty, 3,750 dollars; on leave of absence, or waiting orders, 3,000 dollars, being under consideration:

Mr. PARKER moved to strike out the words "coast stations, and when acting as navy commissioners."

Mr. WATMOUGH made some explanations, and expressed the hope that the motion would be rejected.

After some words from Mr. PINCKNEY, in opposition to the motion, the motion was rejected, and the amendment concurred in as reported.

The next amendment, which fixes the pay of masters commandant, and commanders, when on sea service, at 2,500 dollars; on other duty, at 2,000 dollars; and while waiting orders, at 1,800 dollars; being under consideration:

Mr. FILLMORE moved to amend it by inserting, after the words "waiting orders," the words "or on leave of absence;" which was agreed to.

Mr. WATMOUGH hoped, he said, that in this amendment the House would not concur with the committee. The difference between the amendment and the clause stricken out was but one hundred dollars.

The question being taken, the amendment was rejected.

The amendment concerning lieutenants was concurred in.

The next amendment, concerning assistant surgeons, was concurred in.

The next amendment was amended by the insertion of the word "purser," which had been omitted by an error.

The amendment reads: "Pursers, when attached to vessels for sea service, or at navy yards, 1,400 dollars; when on leave of absence, or waiting orders, 900 dollars."

Mr. WISE asked for some information on the subject of the amendment.

Mr. WATMOUGH explained the reason which had induced the committee to change the present regulations concerning pursers. He stated that it had been deemed expedient to abolish the commissions of the pursers on tea and sugar sold out to the sailors, and the additional salary to the pursers was given to compensate them for their loss by this abolition of the commissions.

Mr. WISE stated that the fixed pay of pursers at present was very small, and that they had fifty per cent. on the tea, sugar, tobacco, &c., which amounted to some thousands, and a commission of twenty-five per cent. on a secondary class of articles. The captains, also, in consequence of their insufficient pay, were frequently obliged to borrow money of the pursers. He adverted to practices of pursers by which the sailors were heavily taxed. Articles had been purchased at Gibraltar, and, after the vessel had gone to sea, the sailors were compelled to receive these articles at double their cost, and as specie. He estimated the annual profit of a purser on board a seventy-four at $14,000. He said he hoped the amendment would not be concurred in, although the purser now received four times as much as a captain, because he thought the regulation of their pay should be made the subject of a separate act.

Mr. PEARCE made a few remarks on the uncertainty of the passage of the bill referred to, and opposed the amendment.

Mr. PARKER hoped the House would reject the amendment, and remarked that the gentleman from Pennsylvania had, last session, introduced a bill under which he now admitted that the pursers had been drawing four dollars a month from the poor seamen. He wished that there should be no increase of the pay of the pursers.

Mr. WAYNE thought that the clause should be stricken out, and regretted that he must separate from the chairman on this question.

Mr. WATMOUGH said that it was the object of the provision to strike at these evils if they existed. He did not desire to increase, but he did desire to bring down the pay of the pursers, and he had desired to make the bill specific on this point.

Mr. WAYNE said he admitted, with Mr. WISE, that the subject required regulation, and for that purpose would vote to strike out the amendment; but he said he would do so to have an opportunity hereafter, when it would not interfere with the passage of the bill under discussion, to disabuse the public mind of any improper impressions, which may have been made, that pursers were receiving, under the present system, enormous emoluments irregularly, and much beyond their merits or the services rendered, and responsibilities incurred by that valuable and essential class of officers. He also added that, when that subject should be discussed, he would vote for an increase of pay to pursers over the sums provided for by the amendment.

The House refused to concur in the amendment.

The amendments concerning chaplains were also concurred in.

The amendment concerning the professor of mathematics was agreed to.

The next amendment, concerning sailing masters, was agreed to.

The next amendments, concerning midshipmen, were concurred in.

The next amendments, on the subject of clerks, were concurred in.

The next amendments, relating to the boatswains, gunners, sailmakers, and carpenters, were concurred in.

The next amendment, on the subject of the absence of an assistant surgeon during an examination, was concurred in.

The next amendment, concerning the allowances to officers, was taken up.

On the question of concurrence there was some explanatory discussion between Mr. HARDIN and Mr. WATMOUGH, on the subject of the allowance of sixteen cents per mile for travel; Mr. H. contending that it had not been the practice to allow more than fifteen cents; and Mr. W. stating that the allowance was necessary.

Mr. REED moved to strike out the word "sixteen" and insert the word "ten."

Mr. WARD suggested "twelve," and the amendment was accepted as a modification.

Mr. MASON said that the allowance was now fixed by the Department at nine cents.

The amendment was modified so as to read "ten" cents.

Mr. HUBBARD moved to strike out the words "for which sixteen cents per mile shall be allowed," so as to leave it still at the discretion of the Department.

The CHAIR decided that this motion would be in order when the former was disposed of.

The amendment of Mr. REED was agreed to.

Mr. FILLMORE moved to strike out the allowance "for detention and employment on special service." He stated that, if the officer was not paid enough for his whole time, the pay should be increased.

Mr. WATMOUGH explained that an officer was frequently transferred from one place to another at an additional charge to himself, and it was to compensate him for that that the provision was introduced.

Mr. McKINLEY was opposed to leaving a discretion in the hands of any Department on a subject which might lead to favoritism.

Mr. REED referred to the usages of the Department. These captains were sometimes taken from their stations and placed on other duties, at great additional expense, and it had been usual for the Department to give an extra allowance of from one to three dollars a day. He was desirous to cut off all extra allowances.

Mr. VANDERPOEL said it was well known that he was friendly to the increase of the pay of the naval officers, and it was in that spirit of friendship that he should vote for the motion of his colleague to strike out the clause under consideration. He was against all extra allowances for special duties. He had regarded it as one of the greatest merits of the bill under discussion, that it was simple and perspicuous, that it called things by right names, and paid the officers specific sums per annum, and no more. He was opposed to *et ceteras*, contingencies, and extra allowances. The principle was wrong, and was, as he could have hoped, inconsistent with the spirit in which this bill was conceived, viz: a desire to make such provision for the naval officers, as that the people should always know and understand exactly what their servants received. If we paid them liberally per year, which he was certainly willing to do; if we paid them liberally when waiting orders, they ought not to consider it a hardship to be put perhaps once in the course of their lives on courts martial, or to be detailed for some other special duty, without receiving for it extra remuneration. He must confess that the amounts included in the bill should exclude all extra claims for what are denominated "special duties." He was willing to allow them ten cents per mile for their travelling fees, when they went to and returned from the point where "such special service" was to be executed, but he was opposed to any per diem allowance at the same time that their annual salary was going on.

Mr. MANN alluded to the scale of allowances made in the army, when officers were sent on journeys to inspect provisions, &c. He thought the allowance ought to be fixed on the same scale, and should vote against the motion.

Mr. WAYNE was in favor of retaining this part of the amendment, as he wished to make the extra allowance adequate to the service to be performed. If the officer were sent on his own expense on a service which required expenditure, he would be induced to shorten the period of employment, although the public service might thereby be injured.

Mr. MASON, of Virginia, suggested that the better way would be to amend the clause by inserting the words "when absent on courts martial," instead of striking out, as proposed.

Mr. BROWN said it was not his purpose to interfere in any manner with the details of the bill under consideration; and he should leave the arrangement of its provisions to those better qualified than himself for the examination of such questions. His honorable colleague, [Mr. FILLMORE,] who had submitted the amendment, and his honorable colleague, [Mr. VANDERPOEL,] who so earnestly advocated its adoption, were at a loss to know what the nature of the special services were for which provision was made in the bill. There was a single instance in his memory, (a trifling one, it is true,) which might possibly have some influence upon the judgment of the House; and he therefore begged to state it. He happened to reside in the vicinity of one of the largest iron foundries in the country, where cannon had sometimes been manufactured for the use of the Government; and he had known officers of the navy (and amongst others a midshipman) detailed for the proof and inspection of those guns, preparatory to their delivery by the manufacturer. Now, the present pay of midshipmen, including rations, amounted to the sum of $319 25 yearly; and no one could reside for a few weeks in the vicinity of West Point (the place to which he alluded) at a less expense than one or two dollars per day. This is but one instance, amongst the many thousands of far greater consequence, of extra duty performed by officers in the naval service, where an extra allowance must be made to enable them to meet their unavoidable expenses. They might be detailed upon courts martial, upon duties of inspection, and upon a thousand nameless and necessary services, both at home and abroad, which could not be executed without additional compensation. The House would see how impossible it was to define what those special services were; and that no legislation can possibly settle the amount of compensation. The discretion must, therefore, be lodged with the Navy Department, or not exercised at all: and the compensation, consequently, withheld altogether.

Mr. FILLMORE contended that the bill provided different grades of compensation for those who were on a foreign station, who commanded at a navy yard, or who were waiting orders. The bill provided for the active services of the officers, among which services were included the sitting on courts martial, or any other incidental duty. If the pay was not sufficient, let it be increased, directly, but not in the manner proposed.

Mr. VANDERPOEL said he had listened with great attention to the honorable gentleman from Georgia, [Mr. WAYNE,] and to his friend and colleague, [Mr. BROWN,] and he was constrained to say that he had heard nothing to convince him that the first view he had taken of this matter was erroneous; and he would here take occasion to say that, if gentlemen had succeeded in convincing him that he had been in error, he would not have been so convinced "against his will;" for, certainly, if he had any sympathies to indulge, they were in favor of the officers of the navy; if he had any wish to gratify, it was that they should be fairly paid for their services; but he had yet heard no satisfactory reason why, after providing for them a liberal compensation in the shape of specific sums, to be paid annually to each, they should be allowed any thing for any extraordinary or special duties that might, by possibility, be required of them.

It was an old adage, that "straws show which way the wind blows," and something had occurred in the course of this debate that made him suspect that some gentlemen were now in favor of retaining this provision for extra allowance, from no friendly disposition towards the bill. He confessed that the support which one of his honorable colleagues, [Mr. MANN,] who had so early opened his battery upon the bill, looked a little

ominous. It was, he believed, fair play, according to the ethics of legislative halls, to charge a bill, in its first stages, with as much odious and unpalatable matter as possible, with a view to secure its final rejection. He did not know but his colleague had become a convert to the bill; but he must, in candor, confess that he was a little jealous as to the motive that had induced him to support this proposition for extra allowance for special duties.

He did not think that the case which another of his honorable colleagues [Mr. BROWN] had put, was at all a fortunate one for the purpose for which it was adduced. He had told us that midshipmen were frequently required to leave the navy yard at Brooklyn, and attend for a few days at the cannon foundry at West Point, and that they could not live there for less than two dollars per day. He would ask, whether they would not be obliged to pay for their own living when at the navy yard? Most surely. How, then, would the account of profit and loss stand, when sent on such an expedition? They would receive, for mileage, six dollars for going up, and the same sum for returning, when the actual fare and expense of going up and returning would not exceed two dollars! Here, then, was a gain of ten dollars; and the idea, that it would cost one of these young gentlemen two dollars per day for living in the neighborhood of West Point, struck him as being somewhat strange. What! the price of living, in the rich and fruitful county of Orange, so exorbitantly high! He was well aware that there was a small portion of that wealthy and respectable district, which his friend so ably represented, so sterile that, if Nebuchadnezzar had been turned out there, he would have starved to death. (He meant the highlands.) But they included but a very small part of the gentleman's district. This was, perhaps, dwelling too long upon the case which the gentleman had put. He would only further observe that he expected that the officers of the navy should take a little of the "bitter" with "the sweet," and that he would not, by authorizing these extra claims for special duties, expose them to the temptation of preferring claims that would induce uncharitable men to say that, what "they lose in dancing" they "make up by turning round." Pay them so much per year, and then the people will know exactly what they are paid.

Mr. MANN, of New York, said that his colleague was mistaken in supposing that, by supporting the bill in this particular, he wished to render it odious. That he was undisguisedly opposed to the bill, he readily admitted. He thought it quite possible, however, that it might become a law. With this belief, it was perhaps best, in order that the millions of public property which might in this way be confided to the officers should be properly taken care of, that some additional compensation should be given as an incentive to a correct discharge of that duty.

Mr. HARPER, of Pennsylvania, was in favor of having the law as definite as possible, and nothing left to the discretion of the Department. It was sometimes the practice, in order to get rid of an officer, or compel him to resign, to assign him extra duties and send him on an expensive agency, &c. He thought the House should guard the officers from this course of proceeding by the Department or the Government.

Various propositions of amendment were suggested; but, before any question was taken,

Mr. BOON said the House was thin, and there was no likelihood that the bill would be disposed of at the present sitting. He therefore moved an adjournment; but withdrew the motion at the request of

Mr. HUBBARD, who asked the consent of the House to offer the following resolution:

Resolved, That the ladies be admitted to the privileged seats of the hall of the House of Representatives on Wednesday next.

Objection being made, Mr. HUBBARD moved to suspend the rule; which was agreed to: Yeas 109, nays 18.

The resolution was then submitted and agreed to.

The House then adjourned.

TUESDAY, DECEMBER 30.

SURVEYOR GENERAL IN ILLINOIS.

Mr. CASEY, from the Committee on the Public Lands, reported a bill providing for the establishment of a surveyor general's office in the State of Illinois; which was read twice.

Mr. CASEY stated that the establishment of a separate surveyor general's office for the State of Illinois was a matter of deep interest to the people of that State; he was therefore exceedingly anxious that the bill should be acted upon at the present session of Congress, and hoped that the House would permit the bill to be committed to the Committee of the Whole on the state of the Union; and accordingly made a motion to that effect; which motion was agreed to.

JUDICIAL DISTRICT IN FLORIDA.

Mr. CHILTON ALLAN, from the Committee on Territories, reported a bill for the establishment of a new judicial district in the Territory of Florida; which was read twice.

Mr. ALLAN moved that it be referred to the Committee of the Whole House, and made the order of the day for to-morrow.

Mr. WHITE, of Florida, said that the bill for establishing a new judicial district in Florida was one of so much importance to his constituents that he could not consent that it should be committed and made the order of the day for to-morrow, which is equivalent to laying it on the shelf with five hundred bills before it, for the session. It was true that these bills on the calendar were reported before this, and have, by usage, the precedence; yet as this is very pressing, the people of Appalachicola being without courts, and subject to great trouble and confusion, he moved to make it the special order of the day for to-morrow week. If the people of Appalachicola were not remarkable for their orderly demeanor and sense of justice, the evils would have been much greater.

Mr. ALLAN having withdrawn his motion, the question was put, and the bill made the special order for to-morrow week.

SPANISH TITLE BETWEEN THE SABINE AND RED RIVERS.

The following resolution, submitted yesterday by Mr. SEVIER, was taken up:

Resolved, That the President of the United States be requested (if not deemed incompatible with the public interest) to negotiate with Spain for her right and title to the country lying between the Sabine and Red rivers, in Arkansas Territory.

Mr. SEVIER said: Mr. Speaker, it is my duty perhaps to explain to the House the object I have in view in offering that resolution. There is, sir, a considerable tract of valuable country lying north of the Sabine and south of Red river, upon which many of our citizens have resided for years; a country of which we have had the undisturbed possession, and over which we still exercise jurisdiction, that will, in all probability, be lost to us for ever, if the boundary line designated by the treaty of 1819 between this Government and Spain should be permanently established. I believe Spain to be the rightful owner of this tract of country; and of that Government, I presume, we can obtain it for a mere

trifle. It is true, Mexico claims this country; but I ask, what evidence has she of her title? Has she purchased it? Has she conquered it? No, she has done neither; and as well might her cupidity and arrogance lead her to set up a claim for Cuba, as for the tract of country in question. Mexico never revolutionized the country north of the Sabine; she never marched a soldier into it; nor has she ever given a dollar for it. Our citizens have held the undisturbed possession of this country from 1806 down to the present day. It is true, we ceded it to Spain in 1819, for which she gave us the Floridas. Has Spain ever parted with her right acquired by that treaty? Has she ever sold it? Has it been taken from her? No, sir, she has not sold it, nor has Mexico ever taken it from her, or been in possession of it. Upon what technical, vain, and flimsy pretext is it, then, upon which she founds her claim to a country which she never acquired by arms, or treasure, or inheritance? Will any honorable gentleman be kind enough to inform me? Is it by discovery, backed by a bull from a Pope? A title thus acquired may have been good in the days of Cortes and Pizarro—it may yet be good where Indians alone are concerned; but I apprehend we are not prepared to recognise it as valid at this day in regard to ourselves. We, sir, have been for years negotiating with Mexico upon a subject about which we ought never to have negotiated; and, if I am correctly informed, we are still negotiating with her upon this same subject, when public policy and national dignity and justice should induce us to abandon it.

The conduct of Mexico in regard to this slip of country brings forcibly to my mind a scrap of ancient history. We have been informed that the Devil met our Saviour upon the Mount, and told him, if he would fall down and worship him, that he would give him the whole world. Now, I need not tell you, or the House, I presume, that his Satanic majesty had no world to give. So with Mexico. She has had her agents among our citizens, possessed of extensive grants to land bordering upon the very banks of Red river, for the purpose of bribing them to abjure their own country, and, by allegiance and expatriation, to become citizens of Mexico. These agents, to some extent, were successful. They induced, by their valuable bounties, some of our honest, hard-working, industrious citizens—citizens who were anxious to obtain land upon easy terms for themselves and children—to take the oath of allegiance to Mexico. They induced others to resist the execution of the civil authority of our country, and so prevalent was this spirit of resistance becoming, that the Governor of Arkansas, who chanced at that time to be in that part of the country, gave them a public address upon the impropriety of their conduct. He told them in his speech that the sheriff would be sustained in the execution of the civil authority of the country. He told them, if their resistance should produce a civil war, that they would be vanquished; and that, if taken in arms against their country, they would not be treated as prisoners of war, but hung up as traitors to their country. Now, sir, it is not for me to say what effect this speech had upon my constituents; but I can say, and do say it with great pleasure, that, at this time, all things are going on as they should go on.

I did not rise to make a long speech. I hope the resolution will be adopted.

Mr. J. Q. ADAMS, after calling for the reading of the resolution, remarked that it was one which the House ought not to adopt without mature deliberation. It would involve an admission, on the part of this Government, that Spain is interested in the Territory of Mexico, and imply a doubt whether the Government of Mexico was independent.

The resolution requested the President of the United States to negotiate with Spain for a portion of this continent, where the title of Spain, as all the world knows, has long since ceased. In what a situation would this place the President? It called upon him to disacknowledge the Government of Mexico, and to recognise the right of Spain to a portion of the territory of Mexico. If we could acknowledge the right of Spain to any part of the territory, what would prevent us from acknowledging her right to the whole territory? He hoped that the gentleman would give a more explicit and satisfactory explanation of the object of the resolution, or that the resolution would be laid on the table.

Mr. SEVIER said, in reply to Mr. ADAMS, that the gentleman seems to express some astonishment at my resolution, and thinks it highly improper to authorize the President to negotiate with Spain for the tract of country mentioned in the resolution, inasmuch as Spain owns no land upon the continent. The gentleman himself made the treaty of 1819, (or at least he has the credit of it in our country,) by which the country in question was given to Spain in part payment for the Floridas. Now, sir, allow me to ask the honorable gentleman to tell me when Spain parted with the title to the country he himself, on behalf of his Government, ceded to her? I want to know who bought it, or what Power took it from her. I state that she never parted with it—that she never sold it—and that it never was taken from her by force. It is a country very desirable for us to own, and I suppose it can be had of her for "six and nine pence," or thereabouts. We have been pursuing towards Mexico a coaxing, scratching, tickling policy long enough. It is time to talk to her manfully; to tell her to confine herself to her lawful territory; to give up her preposterous claims to a country she does not own; and, above all, to cease tampering with our citizens, or else we will make her. Our partialities are all for Mexico, against Spain; and yet I must confess that I have yet to see any thing in the Government of that fickle, jealous, and bigoted Republic, in anywise calculated to excite either my love or admiration. I hope the resolution will not be laid upon the table.

Mr. ADAMS saw no reason, he said, for interrupting the negotiation which the gentleman acknowledged was going on with the Mexican Government in relation to this subject.

Mr. POLK wished, he said, to remark, in addition to what had fallen from the gentleman from Massachusetts, that it struck him as something very unusual for the House of Representatives, which constituted no part of the treaty-making power, to undertake to instruct the President to enter into a negotiation on so grave and important a question. He knew of nothing which should induce us to interfere with the pending negotiation, and he moved to lay the resolution on the table.

Mr. CAMBRELENG hoped, he said, that the gentleman would withdraw the motion to lay the resolution on the table, in order that we might reject it.

Mr. POLK accordingly withdrew his motion.

Mr. ARCHER concurred, he said, in the opinion that the resolution ought to be promptly and decisively rejected. It was a proposition to put an end to an important negotiation, and would frustrate the very object which the gentleman from Arkansas had in view. The reason of the delay of the negotiation with Mexico had been stated in the President's message. By adopting the resolution, we should give very just cause of offence to the Government of Mexico; for it affirmed, in effect, that Spain had still an interest in the territory of Mexico. Although we had recognised the independence of Mexico, yet, in adopting this resolution, we should vote it to be a dubious and disputed point whether Spain or Mexico owned the territory. Such an insult to the Government of Mexico would have the effect to determine the

negotiation, and to extinguish all hope of our acquiring the territory referred to. The gentleman from Arkansas, looking to the interests of that part of the country, ought to be the last man to propose such a course.

Mr. MERCER rose, he said, to ask the mover to withdraw his proposition, and to say that, if he did not, he should be under the necessity of calling for the yeas and nays on the question of its adoption. This Government stood pledged to Mexico to resist any effort, on the part of Spain, to recolonize any part of the American continent, and he hoped that no one who was a party to that pledge would vote for this resolution. He wished Mexico to know that this House refused to entertain a proposition of a character so derogatory to her national dignity. Were not gentlemen aware of the importance of maintaining relations of amity with Mexico? Had it been forgotten that the life of a minister from the United States to that Government had been endangered, and our commercial interests in that country jeoparded, by the jealous influence of a commercial rival? By adopting such a proposition as this, we should give good cause for those jealousies which the Mexican Government had been led to entertain of the views of this Government in regard to the interest of Mexico.

Mr. SEVIER said he had no idea that his resolution would have met with such opposition from so many quarters of the House. The gentlemen seem to suppose my resolution very unusual and extraordinary; that I am for taking of Mexico lands to which her right is undoubted; and, lastly, that it may produce much mischief, and no possible good. My object is not to produce mischief, or to embarrass the administration, or to take of Mexico one inch of ground which belongs to her. And, as such results seem to be apprehended by my friends, I will withdraw the resolution; but, in doing this, let it be distinctly understood that it is not because I am in favor of settling the slip of country with free blacks. We have difficulties enough already with our runaway slaves, and I am not disposed to increase those difficulties, by affording them a safer and more secure retreat. I withdraw the resolution.

PAY OF THE OFFICERS OF THE NAVY.

The House resumed the consideration of the bill to equalize and regulate the pay of the officers of the navy, as reported from the Committee of the Whole, the question being on the amendment proposed by Mr. FILLMORE, of New York, to strike out the words making an allowance "for detention and employment on special service."

Mr. MINER, of Connecticut, entirely accorded, he said, with the idea that as little discretion should be allowed to the Department in fixing the compensation of officers of the navy as was consistent with justice and equity. But it was impossible to do justice to them by putting down the exact sum which each should receive for his services. Though he was not acquainted with the technical meaning of the term "special service," yet it was very apparent to him that there might be special services which would be attended with extraordinary expenses to the officers detailed for their discharge. If one officer is charged with a duty which involves extra expense, and another with a duty attended with no extra expense, it could not be said that the same pay would be an equal and fair compensation to both. This would break in upon the principle of equality and graduation proposed by the bill. He thought it proper that officers detailed on special service should receive an extra compensation, not exceeding the amount of the extra expenses incurred by them in performing the service; for he fully accorded in the principle that the Government was entitled to the services and the whole services of an officer, and that he should not receive any larger sum for his services than was allowed by law. He hoped the clause would be retained.

The question was then taken, and the amendment was rejected.

The question being on concurring in the entire amendment, as reported, and as amended by striking out 15 and inserting 10 cents for every mile's travel,

Mr. WATMOUGH moved to insert a provision allowing two dollars a week for chamber money; which, after some explanations, was agreed to.

On motion of Mr. BRIGGS, the amendment was further amended by providing an allowance of two dollars a day to officers detained at courts martial, and employed in the survey of coasts.

The entire amendment, as modified, was then concurred in.

The next amendment, in the last clause of section 2d, striking out "relatives," and inserting "widowed mothers and unmarried sisters," was taken up.

[The 2d section, as reported by the Committee of the Whole, is as follows:

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury shall be, and he is hereby, authorized and directed to deduct from the pay hereafter to become due of the commission and warrant officers of the navy of the United States, three per centum of the amount thereof, and to pay the same to the Secretary of the Navy and the navy commissioners for the time being, who are hereby appointed a board of commissioners, by the name and style of "commissioners of the navy widows' and orphans' fund;" which, together with any other moneys to which the fund may become legally entitled, shall constitute a fund for the relief of the widows, children, and widowed mothers and unmarried sisters of the said commission and warrant officers of the navy of the United States, to be invested by said board, and the proceeds of it divided and disbursed in such manner as may be hereafter prescribed by Congress.]

Mr. WISE moved to amend the amendment by inserting, "when no widows and children, then to widowed mothers," leaving out the words "unmarried sisters."

Mr. CAMBRELENG supported the motion. As administrators of the navy fund, we ought, he said, to be governed by the pension rules. He had known no case in which pensions had been allowed to the sisters, and of very few in which they were given to mothers. The fund was intended for the widows and children of deceased officers.

After some further conversation on the subject between Messrs. REED, MCKENNAN, CAMBRELENG, and WISE, the motion of Mr. WISE was rejected.

The amendment of the committee was then concurred in.

The following amendment to the third section, reported by the Committee of the Whole, was then taken up for consideration:

"That, from and after the passage of this act, the distribution of prize money to the officers, seamen, and marines, of the navy of the United States, shall be in proportion to the pay which said officers, seamen, and marines, shall respectively receive."

Mr. WISE said that the seamen employed in the navy received more pay in money than the marines; and contended that, should the amendment now proposed be adopted, the contrary would be the effect. Mr. W. proposed a modification of the amendment, as follows: "*Provided*, That in estimating the pay of marines, the value of clothing furnished them, as part of their compensation, shall be included."

Which Mr. JARVIS accepted.

Mr. HARPER, of Pennsylvania, observed that the section involved a very important consideration, in regard to the distribution of prize money. The marines

were now on the same footing as to pay as the seamen, and he thought, upon a review of the whole matter, that much injustice would be done by this amendment to the seamen. For himself, he should vote against the whole amendment, and hoped the House would follow his example.

Mr. BINNEY said that the principle involved in this section was a novel one, and its effect would be to overthrow all the House had done. We had gone through one war upon the present system, and he saw no reason why it should now be changed. He trusted the House would weigh well the subject before they made so serious an alteration as was now proposed. The effect of the amendment as to prize distribution was to put the crew above the officers in regard to their proportion of pay; to put, in fact, the captain in a subordinate situation. And for what object? The seamen were perfectly satisfied with the present mode of distributing the prizes *pro rata*. It was followed by all the private armed ships in this country. He made these remarks with a view of inducing the House not to make any change in the system at the present time, and that they might reconsider the subject. He had no intention of entering further into the subject at this time.

Mr. JARVIS said he would have felt embarrassed at entering into the contest with the highly talented gentleman from Pennsylvania, [Mr. HARPER,] did he not feel that he had on his side truth and justice. He, in the outset, was adverse to any delay on this subject, believing that if it was now postponed, it would meet with opposition from those who had most weight in the House—the officers. Such, however, was not the situation of the hardy mariner—"poor Jack." He (Mr. J.) approved of the present amendment, because it secured to him that which he most cared for, and which he could not have under the present prize system—a night's "frolic" ashore.

Mr. WAYNE trusted that no embarrassment would be thrown in the way to prevent the passage of the bill.

Mr. JARVIS repeated that the only chance there was left of doing justice to the hardy mariner, was that this amendment should pass.

The question being then put upon agreeing to the amendment as modified,

It was rejected: Ayes 43.

All the amendments of the committee being gone through,

Mr. CAMBRELENG moved to strike from the second section of the bill creating the orphans' and widows' fund, the following words:

"For the relief of the widows, children, widowed mothers, and unmarried sisters, of the said commission and warrant officers of the navy of the United States;" which was agreed to.

Mr. MANN, of New York, then moved to strike from the bill the second section, creating the widows' and orphans' fund, on the ground that it was establishing a new pension system.

Mr. MASON, of Virginia, said he had regarded this as one of the most important and valuable features in the bill. It was objected to by the honorable gentleman from New York, [Mr. MANN,] as establishing a new pension list. He (Mr. M.) totally dissented from the views which that gentleman had taken, and averred that it was but a reasonable request that the Government should take care of those who were near and dear to the officers of our gallant navy. He trusted the section would not be stricken out.

Mr. CLAYTON said he should be extremely glad if the motion of the gentleman from New York could prevail; for unless it did he should be driven from the support of a bill which, in all other respects, had his entire concurrence. His objection to the section arose from a consideration which could not be obviated, for it was nothing less than a constitutional scruple. He considered it in the light of a pension fund, the object of which was to support the wives and children of the officers of the navy. Now, when this matter is candidly considered, you are attempting to do that indirectly which you cannot, nay, dare not, do openly. When has ever the Government attempted to pension any one but the officer and soldier himself, who has survived the conflicts of war? In your late pension system, against which the voice of the South was raised, because of its unconstitutionality, and which your President and pension commissioner inform you is fraught with the most infamous frauds, have you provided for the wives and children of the officers and soldiers of the Revolution? Why is the navy more deserving of your extraordinary bounty? But, sir, it is against your authority to pass such a law that I object. You have, by this law, allowed what you believe to be an adequate, and no more than an adequate, compensation for your naval officers, and then you tax it with three per cent. as a pension for their wives and children at a future day. Now, if they can spare this sum for that object, it is proof that they can do without it; and, if they can, it is just so much given away by the Government, and the object for which it is given does not sanctify the gift; because, if bestowed as a pension, you have no such right; and if it is intended as an act of benevolence, it is worse. Show your authority in the constitution for creating benevolent institutions. Any man will be convinced of the impropriety of this measure if he will separate the two objects in the bill. Let two bills be presented, one for paying the officers of the navy and the other for providing a pension for their wives and children, and then see how many would support the latter. Or suppose a law should now be proposed to set apart a fund for the payment of the wives and children of all the naval officers who have died within the last ten years, or from the foundation of the Government, how many would be found to advocate it? If you could not give such a law as this your sanction, how can you incorporate such a principle in the bill upon your table? Mark, Mr. Speaker, the nature and extent of the principle. If it be right to pension the wives and children of naval officers, it is equally so to pension the wives and children of the officers and soldiers of the army; nay, sir, of every public functionary in the Government. What would be the character of such a system, extended so as to embrace members of Congress, the President, the heads of Departments, indeed every officer of the whole Government? It would be a pension system ingrafted upon the salaries or compensation of public agents, ingeniously contrived to pay them for their services, and then to provide a support, at the expense of the rest of the community, for their families. It is the genius of our Government to pay an officer the full value of his services, and no more; all beyond this is wrong. Let him therefore save as much as he pleases out of his salary for his family. Do not hold out an inducement to him to be prodigal of his wages by reason of laying up an extra support for his family, and which may afford him the pretext to come here again and ask for an increase of pay; nor compel an officer, who may be frugal, saving, and industrious, to support the family of another, by a contribution from his salary, that is an incorrigible spendthrift. It is upon this view of the subject I oppose this section, and which will, if it passes, constrain me to vote against a law which I am anxious to cherish and support. This pension system is an odious one, and its mischiefs are beginning to display themselves in every part of the country. It will be recollected how much it was opposed by Southern members on a former occasion, upon the grounds of its injustice as well as unconstitutionality. If they remain consistent, they must oppose

this provision, for it is an increase and continuance o the system in a still more objectionable shape, because it is in disguise.

The House adjourned.

WEDNESDAY, DECEMBER 31.

After the reading of the journal,

On motion of Mr. HUBBARD, it was

Ordered, That when the House adjourn, it will adjourn to meet again on Friday next.

GENERAL LAFAYETTE.

The SPEAKER announced that, under the joint resolution, the House would be considered as regularly in session, until adjourned in the usual manner, after the delivery of the contemplated eulogy on the life and character of Lafayette.

According to previous arrangement, the Senate, accompanied by the Vice President, the President, the heads of Departments, a portion of the foreign diplomatic corps, the joint committee of arrangements, and Mr. JOHN QUINCY ADAMS, entered the hall of the House of Representatives at half past 12 o'clock, P. M.

Mr. HUBBARD (the chairman of the committee of arrangements on the part of the House) conducted Mr. ADAMS to the Speaker's chair, from which he rose and delivered an address on the life and character of General Lafayette, which occupied about three hours' time.

When Mr. ADAMS had concluded, the Vice President and Senate retired to their hall, the President of the United States, heads of Departments, &c. &c. withdrew, and the House, on motion, adjourned over to Friday.

FRIDAY, JANUARY 2, 1835.

AMENDMENT OF THE RULES.

The following resolution, offered on Tuesday last by Mr. THOMAS, of Maryland, was taken up for consideration:

Resolved, That the thirteenth rule of this House be amended, by inserting therein the words "district attorneys of the United States," after the words "judges of the United States."

Mr. FOSTER said he was aware that the House was reluctant to extend the privilege of the floor, and that many gentlemen thought it was already extended too far; but the attorney for the District of Columbia, and of other districts, had frequently important business before the committees of the House, and their admission would not be attended with any inconvenience.

Mr. PATTON moved to amend the resolution by inserting "members of the State Legislatures."

The CHAIR stated that members of the State Legislatures were admitted by the CHAIR, in accordance with usage.

Mr. PATTON wished the usage to be carried into a law.

Mr. BEATY suggested the propriety of embracing judges of State courts in the amendment; and

Mr. PATTON so modified it.

The amendment, as modified, was rejected, by a vote of 68 to 70.

Mr. HARDIN, after saying that there was difficulty enough already in hearing what was going on in the House, moved to lay the resolution on the table; but withdrew it.

Mr. THOMAS, of Maryland, said the rule of the House provided for the admission on the floor of the heads of Departments, the auditors, treasurer, and other officers, for the reason that they have frequent intercourse with the committees of the House. It was proper, for the same reason, to extend the privilege to another class of Government officers, who, he was surprised to find, had been omitted. The proposed extension would not at all incommode the House, for it would seldom happen that there would be two individuals in the District of Columbia on whom it would operate. The principal object of the resolution was to enable the Committee on the Judiciary to hold intercourse with the district attorneys, and to facilitate the transaction of business between the Committee on the District of Columbia and the attorney for this District.

Mr. HARDIN said he would be the last person in the House to refuse any courtesy to the amiable and accomplished attorney of this District, or to the other attorneys referred to; but there was already so much conversation around us that we could not hear what was going on in the House. The gentleman from Maryland thinks they have as good a right to the privilege as the auditors, &c. He wished to God he had the means of excluding all officers from the floor, of a grade below the heads of Departments. There was inconvenience enough in getting along here any how, without the admission of any persons on the floor. He was at a loss to know what the Committee on the Judiciary had to do with the district attorneys. The fact and the truth probably was, that those gentlemen wish to come here to prosecute some of the innumerable private claims which are every year brought before Congress. We were importuned by claimants and their agents, in our chambers and in the committee rooms, and now it is wished to give them access to us on this floor. He put it to the mover of the resolution, if that was not the reason why the attorney for this District, and the other district attorneys wished to get on the floor.

[Mr. THOMAS was not aware, he said, that this was a leading object with those gentlemen.]

Mr. HARDIN was perfectly well satisfied, he continued, that this was a motive, if not a leading motive. There was nothing more humiliating to members of this House than the fact that lawyers were employed in this District to importune members in favor of private claims. He moved to lay the resolution on the table; but withdrew it at the request of

Mr. BURGES, who should be extremely glad to extend the privilege of the floor to members of the State Legislatures, but as they were excluded, he should vote against the admission of the attorneys of this or any other district. He knew not what peculiar intercourse there might be between the attorney for this District and the Committee on the District, which rendered it necessary to admit him on the floor. After all the liberal legislation of Congress in regard to the District of Columbia, it would be mortifying to learn that the District thought it necessary to supervise our proceedings in relation to her affairs.

Mr. VANDERPOEL, after some remarks, suggested the propriety of a reconsideration of the vote rejecting the amendment for the admission of members of State Legislatures.

Mr. MILLER concurred in the remarks of the gentleman from Rhode Island, [Mr. BURGES.] He moved to amend the resolution so as to include members of the State Legislatures and district attorneys, which varied from the amendment which had been rejected, by not including judges.

Mr. HARDIN moved to lay the resolution and amendment on the table.

Mr. MILLER called for the yeas and nays; which were refused.

The motion to lay on the table prevailed: Ayes 108, noes not counted.

GENERAL LAFAYETTE.

The following joint resolution was offered by Mr. HUBBARD:

Resolved by the Senate and House of Representatives,

That the thanks of Congress be presented to JOHN QUINCY ADAMS, for the appropriate oration delivered by him on the life and character of General Lafayette, in the Representatives' hall, before both Houses of Congress, on the 31st day of December, 1834, and that he be requested to furnish a copy for publication.

Resolved, That the chairman of the joint committee appointed to make the necessary arrangements to carry into effect the resolution of the last session of this Congress, in relation to the death of General Lafayette, be requested to communicate to Mr. ADAMS the aforegoing resolution, receive his answer thereto, and present the same to both Houses of Congress.

The resolution was agreed to, *nem. dis.*

Mr. CAMBRELENG asked whether this was the proper time to move the printing of an extra number of copies of the eulogy.

Mr. HUBBARD replied that it was thought proper first to pass the resolution and receive an answer, after which the committee would move the printing of the eulogy, and of an extra number of copies.

THE PUBLIC MONEY.

Mr. GAMBLE submitted the following resolution, which was read:

Resolved, That the Secretary of the Treasury be directed to communicate to this House whether, in his opinion, it is practicable or convenient for that Department to collect, safely keep, and disburse the public moneys of the United States without the agency of a bank or banks; and, if so, to report to this House the best mode, in his opinion, by which that object can be accomplished.

Mr. GAMBLE asked for the immediate consideration of the resolution.

Mr. POLK said, if the gentleman would refer to the report from the Secretary of the Treasury on the mode of keeping and disbursing the public money, of which ten thousand extra copies were printed, he would find the information which he wanted in great detail. The report expressed the opinion that no Bank of the United States was necessary to aid the Treasury in its fiscal operations. It stated, also, that the present system was in successful operation.

The Secretary accompanies the report not only with arguments that were, in his opinion, irresistible, but with a full history of the operations of the Treasury. He could see no use in the resolution. The Secretary of the Treasury could only answer to it that the information called for was already furnished.

Mr. GAMBLE said the object of his resolution seemed not to be comprehended. His object was to see whether not only the Bank of the United States, but all banks, could not be dispensed with by the Government in its fiscal operations. He was opposed to the employment of any agent by the Government, except its own agent, an agent that should be solely responsible to the Government. His object was to ascertain whether the Secretary of the Treasury could not dispense with the agency of any bank at all. He had seen no project for keeping and disbursing the public money which to him did not appear very defective, except the Government agency recommended by the President in his message of 1830. The Government bank there recommended by the President came up more fully to his idea of a proper fiscal agent for the Government than any proposition he had met with. He believed, however, that few or none, either of the friends or opponents of the Bank of the United States, favored that plan. The friends of the bank did not approve it, because the time had not arrived when it was necessary to look out for a new agent. But the Bank of the United States had now gone down, never to be revived, and its friends, as well as its opponents, must make a choice of another agent. He wished to have the views of the Secretary of the Treasury, and of the whole cabinet, on the subject, and to possess the House fully of every consideration which should influence their judgment, before we took a step which he feared would be followed by the loss of a large portion of the public treasure.

Mr. CAMBRELENG said the report of the Secretary of the Treasury was very able and very full on every branch of the inquiry proposed by the gentleman from Georgia. He did not conceive that there was any very strong objection to the adoption of the resolution, but if it went to the Secretary of the Treasury, the Secretary would, in reply, refer to the full report already made on the subject. When the subject comes before the House, if any better plan than that now in operation can be found practicable, it would, of course, be adopted. But he apprehended that the project referred to by the gentleman from Georgia, as meeting his views, would meet with but very few friends.

Mr. CLAYTON rose to make some remarks, but was interrupted by Mr. E. WHITTLESEY, on whose motion the House proceeded to the orders of the day, which were private bills.

DAVID KILBOURNE.

The order of the day being announced, the bill for the relief of David Kilbourne was taken up.

Mr. THOMSON, of Ohio, said he was about to have moved the postponement of the consideration of this bill, inasmuch as it was likely to elicit some further discussion; but, from the solicitation of several friends of the bill, he would withdraw that intention, and hoped the question would be taken on its engrossment.

On the question of engrossing the bill for a third reading, the yeas and nays were demanded, and the motion seconded by the House.

The question was then discussed by Messrs. THOMSON of Ohio, BRIGGS, WARDWELL, and HUBBARD, in favor of the bill; and Messrs. WHITTLESEY of Ohio, HARDIN, GRENNELL, and LANE, in opposition to it.

Pending this discussion, an unsuccessful motion was made to lay the bill on the table.

The question was then taken by ayes and noes, on the engrossment of the bill, and decided in the negative: Ayes 94, noes 97.

So the bill was rejected; and then

The House adjourned.

SATURDAY, JANUARY 3.

THE PUBLIC MONEYS.

The House resumed the consideration of the following resolution, submitted yesterday by Mr. GAMBLE:

Resolved, That the Secretary of the Treasury be directed to communicate to this House whether, in his opinion, it is practicable or convenient for that Department to collect, safely keep, and disburse the public moneys of the United States without the agency of a bank or banks; and, if so, to report to this House the best mode, in his opinion, by which that object can be accomplished.

Mr. CLAYTON, of Georgia, said he wished to present to the consideration of the House one or two views in favor of his colleague's resolution, which, in his opinion, seemed not only to justify, but to call loudly for its passage. It will be recollected that we of the South are opposed to the bank upon constitutional grounds, and, indeed, it must not be forgotten that a renewed charter has already met with executive rejection upon that ground. Our principal argument is that this Government has no right to grant charters of incorporation for

any purpose. Now, we contend that Congress has no right to do that indirectly which it has not the power to do directly. If it cannot incorporate a bank for a given purpose, it cannot, by law, use a similar corporation created by another distinct Government for the identical same object. Let me illustrate the idea. We say, and so says the Executive, you cannot establish a bank in Philadelphia, or any where else, for the purpose of collecting and disbursing your revenue. Why? Because, by the constitution, you have no right to create charters of incorporation. But here we part with the Executive, and find it on the other side of the question maintaining that, by law, you may take a bank already incorporated to your hands, by the independent authority of Pennsylvania, for the purpose of collecting and disbursing your revenue. Now, how can this be reconciled? Is not this accomplishing, by indirection, that which it is acknowledged cannot be done by direct legislation? The law which enacts that the charter of a State bank, already cut and prepared, shall be held and taken as the authority of the federal Government for the performance of certain acts, or, more properly speaking, for executing some of its constitutional powers, cannot possibly, in principle, differ from a law that should create a charter of its own. The people of this country surely do not so lack discernment as to be made to believe there is any difference. Let the collectors of the revenue deposite the whole public money where they please, holding them responsible for it, and perhaps, as agents, the State banks may effectually answer the purpose; but do not let the Government so fold its arms around them as to make them political machines. But, sir, we are told, and, indeed, we are in the midst of the very fact, that the Bank of the United States and its twenty-four branches are incompetent to the fiscal operations of the Government. Not from inability, either mental or pecuniary; for experience, the best of witnesses, gives a flat contradiction to that idea, but because its great moneyed power is dangerous to the liberties of the country. Now, although this is not a sound argument against its capacity to perform the fiscal functions of the Treasury, yet it will be admitted to be a very sound argument against connecting it with the Government, and applies with as much force against one bank as another—against forty little monsters, (the present number in use,) as one big one with twenty-four whelps.

The object of my colleague's resolution is to inquire, and merely to inquire, whether there is no plan by which we may escape from the clutches of either. Whether it is not possible to divorce the Treasury Department from all connexion with the banking system; that system that controls the great moneyed power of this vast country, and which is said to have so dangerous an influence over the liberties of the country. And, sir, this inquiry becomes a matter of still deeper interest when it is remembered that one of the main reasons for removing the public deposites was the discovery that the United States Bank was opposed to the "Government," and had actually interfered in its elections. Now, admit this, is there no danger from a similar interference on the part of this great moneyed influence, though wielded in another form? Grant that it may not be opposed to the Government, (I use the word in its modern signification,) may it not be in favor of the Government; and I put it to the candor of gentlemen to say which is the most dangerous of the two? Recollect that government, in any sense, is a monstrous power, and has oftener overthrown the liberties of the people than any other one cause that has ever effected that object. It is as much to be watched as any other power. Now, is it not safer for the liberties of the people, that two great powers should contend against each other, than that they should be united in the same cause, and for a common object? Let us throw our view some fifty years ahead of the times, and this a statesman should do in order to get out of the miserable web of party feelings, selfish aims, and ambitious projects, with which he finds himself entangled, and make the cool and rational inquiry, whether the liberties of the people, and the inestimable privilege of the elective franchise, would not be in more danger from having the great moneyed power of the country under the entire control of the executive branch of the Government, than if it were actually opposed to it.

While these two great powers are warring against each other, the people will look on, and if they have the capacity of self-government, which is so readily accorded to them by all, surely they will be able to control that power which seems most opposed to their rights. Not so if they are united; they will present a force wholly irresistible, and which no moral energy can withstand. Now, sir, the purpose of the resolution is not to inquire whether the State banks will answer better the objects of the Government than the United States Bank, but whether we cannot do without the banking system altogether; to have it neither for nor against the Government; to have it intermeddle with the elections, neither for nor against the office-holders; to have no communion with the monster in any shape, either as pets or beasts of prey. If the power of money cannot be trusted in one shape, it is idle to suppose that it can in another. You may think you have chained it to a post, around which it is obliged to beat its path like a tame bear, or you may think you have drawn its teeth, by taking the little State banks for your purpose; yet, depend upon it, a bundle of rods will hurt fully as bad as a cudgel of the same size, and though they may not bruise, yet they will as effectually sting you to death. Then, sir, upon the constitutional as well as the question of expediency growing out of the dangerous consequences of connecting the banking system with the Government, in any shape, it would appear that the inquiry sought by the resolution was of the first importance.

Mr. CHILTON ALLAN said the resolutions calling upon the Departments for reports and information had not usually encountered such unyielding opposition as had been opposed to this. The reasons assigned for this opposition induced him (Mr. A.) to believe that there existed some misapprehension as to the import of the resolution offered by the gentleman from Georgia, [Mr. GAMBLE,] and which is now under consideration. The gentleman from Tennessee [Mr. POLK] maintains that this resolution was unnecessary, because we had now on our tables a report from the Secretary of the Treasury, containing precisely the information sought for by this resolution. It is very true that we have a report from that Department upon the present system of collecting, keeping, and disbursing the public money through the agency of the State banks. But the resolution now before you calls upon the Secretary to report to this House whether, in his opinion, it be practicable to collect, safely keep, and disburse the public moneys of the United States, without any bank agency whatever; and, if so, to report the best mode, in his opinion, by which that object can be accomplished. Now, sir, the information required by this resolution is not furnished by the report referred to by the gentleman from Tennessee. The question whether it be practicable and convenient to conduct the fiscal operations of the Treasury of the United States, without bank agency, was considered as settled by the uniformity of opinion maintained in the Treasury Department ever since the year 1791. But of late it has been affirmed that bank agency was not necessary; that all banks were in-

compatible with the public interest. That the legislation of Congress, and the administration of the Treasury, should be conducted with a view to lead the country back to the exclusive use of hard money. But, sir, instead of a report from the Treasury, to show how that Department could go prosperously on, independent of all bank assistance, we have a report showing the necessity of the services of some scores of banks. It appears to me (said Mr. A.) that the Treasury scheme of forming an alliance with so many banks—the contributions, encouragement, and aid thus given, will cause the number of banks to increase and greatly multiply the amount of paper money, and thus thwart all hope of returning to the use of gold and silver.

Sir, it is a remarkable fact, that at a time when the people were taught to believe that they would very soon have in their commerce the exclusive use of the precious metals, that paper money was increasing with unexampled rapidity. Yes, sir, paper money is at this very time multiplying faster than at any former period in the history of the United States, under the present constitution. Then, as the Treasury scheme will destroy all hope of a hard-money Government, and fasten upon the country a depreciated paper currency of local value, and knowing the devotion of the gentleman from Tennessee for eagles and half eagles, Mr. A. said, he hoped he would withdraw further opposition.

Mr. POLK said the time was, and not very remotely, when it was contended here that a bank, and only one bank, could act successfully as an agent of the Treasury; but now, when it was ascertained that other agents had succeeded in discharging the same duties, it was ascertained and asserted that no bank was necessary.

Mr. ALLAN here remarked that he had not contended that no bank was necessary. As to that he had given no opinion. He had said that it was contended by some that no bank agency was necessary.

Mr. POLK resumed. He would state, precisely, what was the information on this point, furnished in the report. There was a passage in the report which responded directly to the inquiry embraced in the resolution. He would read it, as follows:

"After the charter shall expire, no difficulty is anticipated in having any of these duties, which may then remain, discharged by State banks. But if any should occur, it will become necessary to devolve these duties on some responsible receiver or collector already in office, or on some safe agent not now in office, as has been the practice for years in this country in paying pensions at convenient places, near which there was no State bank or branch of the United States Bank, and as has long been the usage in some countries of Europe, by having the public revenue in certain districts chiefly received, kept, and transmitted through private agents and brokers. This kind of personal agency, however, is, in the opinion of the undersigned, to be avoided, in all practicable and safe cases, under our present system of selected banks; because it would render the system less convenient, less secure, and more complex, if not more expensive. Hence it has not yet been resorted to.

"But it was considered proper to mention this contingency, in order that its effects, if ever anticipated, may beforehand be duly weighed in the examination of the whole subject; and to add that, if this contingency be extended to the whole establishment of State banks, as well as of the United States Bank, on the possibility that they may all cease to exist, or may refuse to receive and manage the public deposites, (however improbable the occurrence of such an event may be,) the fiscal operations of the Government could undoubtedly still proceed, through the personal agencies before mentioned. It is admitted, however, that it would be at some inconvenience, and some increase of expense, unless remedied in a manner that may hereafter be developed, and would not, in the opinion of this Department, and in the present condition of things, be so eligible a system as the present one. Because banks, though exposed to some dangers and evils, and though not believed to be necessary for the fiscal purposes of any Government, and much less of one in the present happy financial situation of ours, are frankly acknowledged to be, in many respects, a class of agents, economical, convenient, and useful."

Here, then, was a full answer to the inquiry whether the public money could not be kept and disbursed without banks. The Secretary says it is practicable, but that, in the present state of things, it is not advisable. In the bill reported on this subject, from the Committee of Ways and Means, there was a provision in respect to the manner and place of keeping the public money, in case the depositories chosen should cease to exist. To pass the resolution would not only be unnecessary, but improper. We call in it for a plan which the Secretary has noticed, but not recommended. He would not now enter into the controversy as to the employment of corporations instead of persons. But he would say that it did not involve the question of the power of the Government to incorporate a bank. Instead of employing collectors or commissioners, the Treasury could employ incorporated companies. He was not the advocate of banks of any kind; but, looking at things as they exist, it was apparent that they were convenient agents. Your finances, he would undertake to say, were as well managed by the agents now employed as they ever were; and when the time came, as soon it would, he would prove it. We were now about to act on this great subject; for, in the ordinary course of business, it must soon come before us. This call would have the effect to delay our action. When the subject came up, any member might present his views and his propositions in regard to the mode of keeping and disbursing the public money. The condition of the local banks, and their competency to act as agents, would then be before us. He did not rise now, nor did he yesterday, to oppose the resolution, but to call the attention of the House to the document containing the information called for, and which, he supposed, might, amidst the lumber covering our tables, have been overlooked.

Mr. FILLMORE, after calling for the reading of the resolution, said he regretted extremely to see this controversy on the subject of a national bank renewed at this time. He was willing that every species of information which was desired should be obtained, but he was not aware that it was either proper or common to ask the opinion of the Secretary of the Treasury as to the effects of legislative measures. His limited experience in the House would not, however, justify him in asserting that such a call was unusual and improper. But it appeared to him to be undignified to call upon the head of a Department for an opinion. It had been said that there was no difference between the power of creating a fiscal agent and employing one already in existence: but to this he could not assent. The power to create and the power to contract with or employ an agent, were, in his view, separate and distinct from each other. This opinion he illustrated by various instances. We might, for example, employ a company in the transportation of stores or munitions of war, without having the power to incorporate a transportation company. He did not undertake to contradict the power, on the part of the Government, to incorporate a bank, but was clearly of opinion that we could, constitutionally, make use of the State institutions as fiscal agents. At all events, he was unwilling to call upon the Secretary of the Treasury for an opinion, especially as that opinion had already been furnished.

Mr. EWING, of Indiana, said he should not rise to make a single remark upon the subject-matter of this resolution, or to give to it any different direction from that desired by its mover, were it not that he felt himself bound to express his entire dissent from some of the reasons assigned for his opposition to its object, by the gentleman from Tennessee; and the gentleman from New York, who had just taken his seat, had very materially increased the obligation to do this. The gentleman from Tennessee, not content with avowing that the Secretary of the Treasury had already transmitted his opinions and wishes in relation to a Government fiscal agent of deposite and distribution, has proceeded to insist that the State corporation bank system, under contracts with the Treasury, has been successful and advantageous; and that no other system would now be approved. The gentleman from New York, to obviate one of the many fatal objections to that destructive system, (or rather want of system,) says that the power sought to be conferred upon the Secretary, by law, to contract with State corporations as fiscal agents, does not necessarily manifest the exercise of a power on our part to create any other agency with banking powers; because he can contract, it does not follow, it seems, that we can create: the States reserved the power to create such institutions. Mr. E. said he owed it to the principles and policy he cherished, and believed it essential to the equal rights and prosperous enterprise of the people he represented, to withhold his assent from these positions of both the gentlemen, to show their error, and to urge the adoption of a different belief.

It is true, the Secretary has sent us a report, in which the State corporations are eulogized; and the scope of that officer's power to adopt and contract with such institutions; the propelling cause; and the certain, deep, and general consequences to flow from our acquiescence in his doing so, the bill reported by the gentleman from Tennessee, when it shall be called up, will afford us a better opportunity to discuss and comprehend. He would not at present advert to the many various opinions from the Treasury Department, which the appointment of a proper fiscal agent, and the proper regulation of the currency, had drawn forth; but he could not pass over the evident discrepancy, in the views of the President and Secretary, as now sent forth. It is known that the President told one of his late Secretaries that "the State banks might not agree to the only plan he thought safe, that of mutual guaranty"—and it is known that the present Secretary omits this important feature in the recognition he seeks of the discretionary powers he has exercised. I know such a guarantee of State banks is utterly impracticable; and unless Congress could control and superintend their proceedings, (which is out of the question,) our placing the public money in their scattered vaults would only be adding the influence of an irresponsible control of money to the existing influence of Government patronage, to be wielded for the advancement of personal and party purposes; and all this to the certain destruction of that common bond of union which is mainly upheld by a community of interest, a general currency, and an equal division of the favors our general Government can command. But the gentleman insists upon it that the plan of the Secretary is a good one, and that success has followed its adoption. Successful, indeed, it may have been, in effecting some purposes, but has it been successful in advancing the legitimate purposes of the Treasury of the Union? Let the losses of the people's money placed in the State banks heretofore—let the obstructions occasioned to trade throughout the country—let the tax which will be indirectly levied upon the substance of the entire West, by way of premium for the shadow of foreign capital now centered in New York, to meet eastern engagements—let the well known use and abuse of the public money, endangering safety without affording any bonus or profit to the country at large; ay, sir, let these, and thousand of additional reasons, show the ruinous success. A sort of general currency has been rendered acceptable in some parts of the West, created by checks of disbursing officers upon deposite banks—acceptable because it suits the receivers of the land offices who have to deposite in the banks on which the checks are drawn—but before this grows into an established custom it requires something of the public voice. The official paper in this city has denied that any authority is given by the Treasury Department to receive such checks in payment of land; but I humbly conceive, notwithstanding such denial, that the power and authority conferred upon receivers to pay claims against the Government, when satisfactory to them, sanctions the reception of such claims in payment of land; indeed, a contrary belief has seemed to imply what I emphatically disclaim and deny, that the receiving and the disbursing officers alluded to would do any unauthorized act calculated to involve the Department. Does the necessity of issuing and receiving such checks prove the success boasted of? No, sir, just the reverse: and the advantages promised to the people at large, and the abundant silver and gold currency promised to flow from the system, where are these to be found? Sir, even if we had no interest but that of the fiscal concerns of the Government to provide for, the system of the Secretary (that of the gentleman from Tennessee) would be an injurious system: and how much more so is it, when, by the agency of your thirty or forty millions of revenue, you attempt to control the thousands of millions passing through the channels of trade, which requires a uniform general currency of easy transmission?

He could not give up the substance to pursue the shadow; he could not abandon all the great interests of our expanding and enterprising citizens, to the disjointed credit of State corporations, in New York or elsewhere. At the same time, it would be unjust and untrue to charge him with desiring to perpetuate the existing Bank of the United States. He was known to be the advocate of a different system—a system free of every rational and constitutional objection, as it should be of all executive control, and without the aid of foreign capital—a safe fiscal agent, to supply the essential general currency, under the direction and for the benefit of the people, upon whose credit it would be founded. It is not convenience or expediency, it is constitutional duty, by which he was impelled to suggest such a system; and, without pretending to be a prophet, he anticipated the near approach of the period when party trammels would be cast aside, and patriotism and wisdom would be heard advocating its adoption. Indeed, he was much mistaken if the State corporation system would be tolerated after the decision of the approaching presidential election, to which, unfortunately for the Union, it seems to bear a near relationship. If in this he be mistaken, he would see prudence pointing to the present period, when a large portion of the warm party feeling prevailing during the last session is allayed, to establish a system for the promotion of the general welfare.

But the gentleman from New York would intimate that Congress have not the constitutional power to establish such a system. The State of New York may, in that case, wield the greater portion of the revenue paid by the consumers of foreign imports throughout the Union; and, as he had already said, the substance of the West would be taxed to obtain the use of a current New York credit—a state of things repudiated by the due exercise of our constitutional power. How the gentleman disposes of the declared objects of the constitution and the express powers conferred upon Congress to accomplish its purposes, another occasion might illustrate: as viewed

through the medium now pointed to, the position he assumes would not bear a touch—it was untenable in every aspect. We admit the United States has power to coin money and regulate the currency, and the several States to be destitute of power to coin, and deprived of the right to create bills of credit; and if the United States cannot do all that is necessary and proper to carry the granted powers into effect, and the States can act with an approval upon a prohibition, indirectly (as is now the fashion) doing what is directly prohibited—then, indeed, the entire spoils of the constitutional power of Congress may flow as the gentleman seems to prefer, for two years at least. Mr. E. said, under existing circumstances, he would not say much that the occasion would justify; his sole object is to promote the interests of his constituents and of the country at large, and another occasion more appropriate is at hand. He wanted no more opinions, however, from the Secretary of the Treasury, to instruct him; he had read enough upon financial agencies from that quarter; more than enough, because it could not all be reconciled. He would legislate for the people, not exclusively for their public servants; for the agriculture, manufactures, and commerce of the country; not exclusively for the Treasury or its dependencies. With this intent, and influenced solely by the views he had very briefly expressed, he should desire to give a practical direction to the inquiry and investigation required by the resolution. He moved to amend the resolution, so as to read, that one member from each State be appointed to inquire and report to this House, such plan, &c.

Mr. S. JONES regretted that the resolution had been brought forward at this time, and hoped his colleague would withdraw it. It would lead to no beneficial results, and was calculated to renew the discussion of a question which had been mooted for months during the last session. The information sought could be of no service; and, if it could, it would be found substantially in the supplemental report of the Secretary of the Treasury. But he rose not so much to oppose the resolution as to notice some observations which had been made by those supporting it. His colleague seemed to suppose that, if we could employ the State banks as fiscal agents, we necessarily had the right to create a bank for that purpose. He could not conceive by what process of reasoning his colleague had brought himself to that conclusion. The State banks had been created by the laws of the different States in the exercise of their rightful and constitutional powers. Congress had nothing to do with, and could not judge of the constitutionality of, those institutions. We find them in existence, and the only question for us to determine in regard to them is, whether we will use them as fiscal agents for the collection and disbursement of the revenue of the United States. It is distinct from the question whether we will create a bank to act as a fiscal agent, and is entirely unconnected with and independent of it. The Secretary of the Treasury is the fiscal officer of the United States, and with him rests the discretion and responsibility of placing the public money in what depository he pleases. Congress has the power to direct in what places it shall be deposited, and upon what terms and conditions; but, in the absence of all law upon this subject, the Secretary of the Treasury must exercise his own discretion, and act upon his own responsibility. And he would assure his colleague that he would at any time join him in limiting the discretion of that officer in passing a law which shall point out where the public money shall be deposited, and the terms and conditions on which the deposites shall be made. And, sir, both the gentlemen [Mr. CLAYTON and Mr. EWING] seem to have fallen into another mistake; they contend that, by the establishment of State banks, an attempt has been made by the States to regulate the currency; and we are told this belongs to Congress and not to the States. Never was there a greater error. Congress has the right to coin money, and regulate the value thereof. So far, then, from the banks regulating the currency, the value and currency of bank notes are regulated by the value of the coin. For, if any bank does not pay its notes in specie, they must necessarily depreciate, and may become entirely valueless. The State banks, then, cannot regulate the currency; nor can the Secretary of the Treasury, in selecting any of them as depositories of the public money, regulate the currency; nor can Congress, by any law in regard to it, regulate the currency. This Government is, and ought to be, a hard-money Government. It was so until Congress, in chartering the Bank of the United States, authorized the debts to the United States to be paid in its bills, and it will be so again so soon as that charter expires. Congress may make such provision in favor of the State banks, but never with his consent. No, sir, let the dues to this Government be payable in gold and silver. I was opposed to any law which should authorize the bills of any bank to be receivable in payment of debts to the Government. Congress may go further, and say no bill of any bank shall be received in payment. But this would be useless. None will be taken, unless it can be redeemed in gold and silver; and, while a bank is able and willing to redeem its bills in gold and silver, you may prevent their payment to the Goverement, but you cannot by any law prevent the people from taking them. Nay, more. Though you may require your collectors to demand gold and silver in payment, you cannot prevent the people from calling on those very banks for the gold and silver, into which it will be again deposited by the collector, so soon as it is received. And, to save all this trouble, the importer will deposite the bills in the bank, for which it is bound to pay him specie, and he will take to the collector a certificate of the cashier that his check will be paid in gold and silver. You may also prevent the State banks from being made the depositories of the public money. But this, so far from proving a benefit, will prove an expense, useless and unnecessary. You must erect buildings suitable for such depositories, and you must employ guards to protect them. All this expense may be saved by the employment of State banks. If they will answer all the purposes of the Government as fiscal agents, there will be no necessity for a Bank of the United States. It will not then be a necessary and proper means for carrying into effect any of the powers granted by the constitution; and not being necessary, it cannot even be pretended to be constitutional.

Mr. McKIM said, as it was evident that all the information sought for was contained in the document already before us, he would move to lay the resolution on the table.

Mr. GAMBLE called for the yeas and nays; which were ordered.

Mr. E. WHITTLESEY moved that the House proceed to the orders of the day; which was negatived.

The question was then taken on laying the resolution on the table, and determined in the affirmative: Yeas 106, nays 97, as follows:

YEAS—Messrs. John Adams, Heman Allen, William Allen, Anthony, Banks, Bean, Blair, Bockee, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carr, Casey, Chinn, Samuel Clark, William Clark, Clay, Coulter, Cramer, Day, Dickerson, Ferris, Fillmore, Fowler, Philo C. Fuller, William K. Fuller, Fulton, Gillet, Joseph Hall, Hiland Hall, Halsey, Hamer, Joseph M. Harper, Harrison, Hathaway, Hawes, Hazeltine, Henderson, Hiester, Howell, Hubbard, Huntington, Janes, Richard M. Johnson, N. Johnson, H. Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kilgore,

Kinnard, Lane, Lansing, Laporte, Lay, Luke Lea, Thomas Lee, Loyall, Lucas, Lytle, Abijah Mann, Joel K. Mann, Manning, M. Mason, May, McIntire, McKay, McKim, McLene, McVean, Miller, Robert Mitchell, Morgan, Muhlenberg, Murphy, Osgood, Parker, Patterson, Pierce, Polk, Pope, Reynolds, Schenck, W. B. Shepard, Augustine H. Shepperd, Shinn, Smith, Standefer, Stewart, W. Taylor, Thomson, Turner, Turrill, Van Houten, Wagener, Ward, Wardwell, Wayne, Webster, Wilson—106.

NAYS—Messrs. John Quincy Adams, John J. Allen, Chilton Allan, Archer, Ashley, Barber, Barringer, Bates, Baylies, Beaty, Binney, Briggs, Bull, Burd, Burges, Cage, Chilton, Claiborne, Clayton, Clowney, Corwin, Crane, Crockett, Darlington, Davis, Davenport, Deberry, Denny, Dickson, Evans, E. Everett, Ewing, Felder, Foster, Gamble, Garland, Gordon, Gorham, Graham, Grennell, Griffin, Hardin, James Harper, Heath, Ebenezer Jackson, William Cost Johnson, King, Letcher, Lewis, Lincoln, Love, Lyon, Martindale, Marshall, Mardis, John Y. Mason, McCarty, McKennan, Mercer, Milligan, Miner, Moore, Patton, Phillips, Pickens, Potts, Ramsay, Reed, Rencher, Robertson, Slade, Sloane, Spangler, Steele, William P. Taylor, Philemon Thomas, Tompkins, Trumbull, Tweedy, Vance, Vinton, Watmough, Elisha Whittlesey, Wilde, Williams, Wise, Young—87.

DAVID KILBOURNE.

Mr. DICKSON moved a reconsideration of the vote of the House by which the bill for the relief of David Kilbourne was, yesterday, rejected; and moved the postponement of the consideration of the motion till Friday next; which was agreed to.

SUSAN DECATUR.

The bill for the relief of Susan Decatur and others was taken up.

Mr. VINTON moved its postponement to Friday next.

Mr. PATTON objected to the postponement, remarking that it was time for the House to come to a decision on the subject.

Mr. VINTON said the bill had, first and last, occupied at least six weeks of the time of the House, and had been four or five times rejected. If we went into it again, it would occupy every Friday and Saturday for the remainder of the session. He thought it time to establish a rule that claims often rejected should yield precedence to other claims on the calendar. To take up this bill was equivalent to a decision not to act upon any other private bill this session.

Mr. CAMBRELENG remarked that the gentleman from Ohio should recollect that this bill, though often rejected, was rejected by small majorities, and merely because gentlemen could not agree as to the mode of distributing the sum allowed to the claimants. After some further remarks from Messrs. PATTON, VINTON, and ARCHER,

The question being taken on the postponement of the bill, it was decided in the negative: Yeas 55.

Mr. GILLET remarked that the House was familiar with the question, and was able to act upon it without further debate. He moved to lay the bill on the table.

Mr. HUBBARD said that, as the success of the motion would be decisive of the fate of the bill, he hoped the vote would be taken in a full House. He therefore moved a call of the House; which was rejected.

Mr. H. called for the yeas and nays on the motion to lay the bill on the table, and they were ordered.

The question being taken, it was determined in the affirmative: Ayes 96, noes 90.

HENRY AWKWARD.

The bill for the relief of Henry Awkward, was taken up, and, after some remarks from Messrs. E. WHITTLESEY, FILLMORE, and ALLEN of Virginia, the bill was ordered to be engrossed.

CAPTAIN ISAAC HULL.

The bill for the relief of Commodore Isaac Hull was taken up. The question being on the amendment to the bill adopted in the Committee of the Whole, striking out the first section of the bill,

Mr. WARD spoke at some length against the amendment.

After some remarks from Messrs. HARDIN, REED, and BURGES,

Mr. PEARCE took the floor, and, speaking a short time, gave way, without concluding, to Mr. CLAY, on whose motion

The House adjourned.

MONDAY, JANUARY 5.

DEFENCE OF BALTIMORE.

Among the memorials presented this morning was one by Mr. McKIM, from citizens of Baltimore, praying that the fortifications commenced some years since may be completed, &c. On presenting which,

Mr. McKIM said: I am requested to present the memorial of a number of citizens of Baltimore, praying that the forts, recommended by a board of engineers many years since to be erected for the defence of Baltimore, may be commenced, or such other works as may be deemed necessary. Having the honor to represent, in part, the citizens of Baltimore on this floor, I ask leave of the House to say a few words in explanation and support of the memorial. It is, I presume, well known that Baltimore is the emporium of the State of Maryland, and now ranks as the third city in the Union, in size and population. In the late war with Great Britain, her citizens supported the rights of the nation with all their energy; and when a powerful British army, under the command of a successful general, landed at North Point, in 1814, to capture the city, her citizens, both old and young, marched to meet the invading foe. A battle ensued; the commanding general of the enemy was slain, and Baltimore had to deplore the loss of a number of her brave citizens. The enemy retreated, without accomplishing the object for which they came; peace took place shortly after; and the Government appointed a board of engineers to examine and report on such places as might require works of defence. The board reported in 1821, and, among others, recommended two works, of the first and second class, to be erected for the defence of Baltimore; the first class to be commenced as soon as possible, and the second at a later period. Thirteen years have passed since this report was made, and, while a great number of the works recommended in the report have been commenced and nearly completed, I regret to state that those mentioned for Baltimore have been entirely passed over. The cause I know not; but the fact is so. Surely the lives and property of the citizens of Baltimore are as much entitled to protection from this Government as those in any other part of the Union. The entire property at risk in Baltimore may be estimated at one hundred millions of dollars, and only one fort to protect the harbor, and that, as I am informed, not in as good a condition at present as at the close of the late war. The citizens of Baltimore place every dependence on the justice of Congress, and expect that the same protection will be afforded to Baltimore as has been given to the neighboring cities, and other points of the Union.

POTOMAC BRIDGE.

Mr. MERCER, from the Committee on Roads and Canals, reported a bill to amend an act entitled an act

authorizing the construction of a bridge across the Potomac, and repealing all other acts in relation to the same; which was read.

Mr. MERCER said, as the bill did not involve an appropriation of money, and was intended merely to legalize a slight deviation from the plan which had been heretofore authorized for the construction of the bridge, he hoped the bill would be permitted to progress without being committed.

The bill was read a second time, and ordered to be engrossed.

PUBLIC DEPOSITES.

Mr. GORDON asked the unanimous consent of the House to submit a motion to print an amendment which he intended to offer to the bill regulating the deposites of public money in the local banks; which was objected to.

Mr. GORDON then moved the suspension of the rule, which was agreed to; and the amendment was submitted, read, and ordered to be printed.

INTERNAL IMPROVEMENT.

The following resolution, offered by Mr. CHILTON on Saturday, was taken up for consideration:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the subject, and report their opinion to this House, of the most equal and just mode of applying the revenues of the country to such works of public improvement, within the respective States of this Union, as may be necessary for the facilitating of commerce with foreign nations, and among the several States. And that they moreover report their opinion of the best and most practicable mode of ascertaining and determining the nationality and importance of such improvements as may be proposed within the said several States.

After the reading of the resolution, Mr. CHILTON addressed the House to the following effect:

Mr. Speaker: My proposition consists of two parts. One seeks a rule for the distribution of the public money; the other, proper objects to which to apply it. I shall discuss both of these points.

In viewing the first, I have nothing to do with so much of the revenue as may be necessary to meet the ordinary demands of the Government. As to that amount, there is no difference of opinion. It matters not where we live; we all contribute freely to raise that sum. But we differ as to the residue which may remain in the treasury, after the payment of these ordinary demands. And of that residue I propose to speak. To enable us to settle a rule for making a fair and satisfactory disposition of this surplus fund, we must adjust some preliminary questions. These will be, in part, of fact, and in part of constitutional law. Those of fact will be, 1st. Who pays this money? 2d. To whom does it belong when paid? Of law: Does the constitution give to any one rights superior to those of any other State to the enjoyment of it? I will notice these questions in their turn.

The first question: Who pays this money? It is clear that the people, and the whole people, pay it. And it is not material whether it flow into the treasury through the channels of the customs, or arise from the sales of our public lands. When from either, the result is the same. The whole people pay the customs, and the whole people own the lands. There are various lesser sources of revenue; but I need not pause to enumerate them. They and their proceeds, like those of the larger, are joint property. I have said of the customs, that they are paid by the people. This may be mistaken for a departure from former opinions. Such is not the fact. I have heretofore said that the cost of articles charged with duty is not thereby necessarily increased to the consumer. I say so still. It is true that the rule may operate differently on different articles. But it is equally true that, if so, it does not affect my argument. It is absolutely certain that the consumer pays the duty. But it is easy of demonstration that, on many classes of articles, the duty is a sum withdrawn from the profits of the foreigner, and transferred to our own treasury. If this be true, the system should be the cause of felicitation rather than complaint. I am aware that it will be a slight deviation from the direct line of discussion; but, with the permission of the House, I will offer one or two examples. They will perhaps prove that the cost of foreign articles is regulated by considerations other than the custom-house duties.

In 1828, Congress passed an important tariff bill. It will be remembered, not alone for its importance, but for the angry contentions which it caused. While that bill was under consideration, many of the northern members urged us to reduce the duty on molasses. They believed that the cost would be diminished, in proportion as the duty was reduced. They assured us that the article entered necessarily into the daily subsistence of the poorer classes of their constituents; that a reduction of the duty would, therefore, be an act of humanity to the poor. We reduced it, perhaps 50 per cent. When we met again at the opening of the ensuing session, I anxiously inquired whether their hopes had been realized? Judge of my astonishment when I heard that the cost was not reduced, but increased. I asked an explanation of the cause. They were unable to give it. I inquired whether it could be traced to casualty, or the scarcity of that article abroad? This was not pretended. In this posture of deep uncertainty and perplexing mystery, the matter rested for some time. At length an opportunity opened, which afforded an explanation satisfactory to my own mind, and I will give it to the House. I was invited to spend an evening with some friends; amongst whom, when met, I found a very intelligent foreigner. Of the numerous topics of conversation introduced, the protective system was one. I alluded to the difficulty of which I have just spoken; expressing great anxiety to find its solution. That gentleman proposed to give it. He did so. And I am persuaded that he furnished the key to that great political riddle.

He said the American Congress legislated as though they were ignorant of a very important fact. It was, that every nation with whom we had commerce, had their secret agents in our market and commercial cities. They were even in attendance on the debates in that body. Their duty was to ascertain and communicate the extent to which the products of their respective countries were in demand here. The extent of which they entered into our daily consumption, our ability to produce them, and the extent to which our population must purchase them without regard to cost. And when on articles thus necessary, if not indispensable, we reduced the duty, a similar, or perhaps greater, amount was added to the cost in the foreign market. He presumed it had been so in regard to the article of molasses. And so did I, as soon as I heard his explanation. It was, I thought, conclusive on the point. One more example, sir. The extent of our commerce with Great Britain is well known. They are extensively engaged in manufactures. They cannot subsist by agriculture. The reason is, they have not sufficient territory: according to my present recollection, it does not exceed fifty thousand square miles. Suppose it were all a perfect plain! not a river, a lake, or mountain, to obstruct its agriculture, and that every acre were susceptible of cultivation! Yet, with a population of twenty millions or more, it will be seen that there would not exceed one and a half acres to each inhabitant.

They must, therefore, not only rely on manufactures, and their commercial enterprise, but the products of their industry must be sold or exchanged for the means of subsistence, whether they will command much or little. Under the operation of this principle, I will put a case: An American merchant goes to London, or Liverpool, or elsewhere, to make a purchase. In the American market a hat of particular quality will command $8; the merchant inquires for that article, and for the price. It is produced, and he is informed the price is $6. Congress shall have laid a duty of two on its introduction into the United States, with a knowledge of which the merchant acts. Will he strike the bargain at $6? No, he cannot. For, if so, the amount of duty being added to the cost abroad, it would equal the value or price at home. He replies to the manufacturer, I cannot pay six: though the intrinsic value of the article is every where the same. I will pay four, (or perhaps three,) which will enable me to meet the duty in my own country; and yet make a living profit. The manufacturer pauses--not to see his alternative, but perhaps to lament his necessity. He cannot command the price he desires; he is compelled to receive the price he can command. Now, each of these examples lead to the same conclusion. It is, that the duty paid by the consumer is an amount withdrawn from the profits of the manufacturer; as it is evident that the former pays no more for the hat than if the duty had no existence. But I will indulge this digression no further. I will proceed to show in what manner all the people make their proportionate contributions to the treasury. The importing merchant first pays the duty at the custom-house; the retail merchant next pays it to him; to whom it is again paid by every citizen who becomes the purchaser of a foreign article, in proportion to the extent of his purchases. Thus, in the end, all is paid by the people; and the payment is made by all the people, as the retail stores are found every where, so far as civilization and population have extended, and where they are, there you find the purchasers.

We have now seen that the customs are paid by all the people; and as it is not controverted that the public lands belong to all the people, their proceeds must also belong to them. To whom, then, must a revenue so derived belong? Most assuredly to all the people likewise, unless some constitutional restraint hangs over their rights. Does there exist in that sacred instrument, the constitution, any such disgraceful distinction? There does not. It exists only in the perverted or bewildered imaginations of those who are trampling on it. If, then, the fund be derived from all, belongs to all, and no constitutional provision abridges the rights of any, it should be applied to the benefit of all. It cannot but follow as the only just conclusion. And it is absolutely certain, under such circumstances, that the policy which would devote it to one State, and deny it to another, is not only unjust, but iniquitous and wicked.

I have been amused at an attempt on the part of the Executive to vindicate his course in this matter. I shall notice this hereafter. I will here present an extract from his last annual message, supporting the view I have taken. It also establishes the conclusion I have reached, viz: that the treasury is the joint property of the nation. It will be higher authority with a majority of the members than all I have said. This is the language used, and his reference is to State improvements:

"If the people of the United States desire that the public treasury shall be resorted to for the means to prosecute such works, they will concur in an amendment of the constitution prescribing a rule by which the national character of the works is to be tested, and by which the greatest practicable equality of benefits may be secured to each member of the confederacy. The effects of such a regulation would be most salutary in preventing unprofitable expenditures, in securing our legislation from the pernicious consequences of a scramble for the favors of Government, and in repressing the spirit of discontent which must inevitably arise from an unequal distribution of treasures which belong alike to all."

In the conclusion we agree, however much we differ in the argument. He says the "treasures belong alike to all." I say the same. I acknowledge, however, I do not envy him his position—the task of reconciling his confession with his conduct; for while he admits that the "treasures belong alike to all," he acts as though they belonged alone to his favorites and friends. But he thinks the constitution should be amended to enable the people to reach their own money! It is a pity that he does not also think an amendment necessary to authorize him to reach it, and to lay hands on it. His scruples on this subject are the progeny of his union with a political seducer. A few years since he did not entertain them. He recommended, and his friends reported, a proposition to divide the revenue among the States. The proposed rule of distribution, if I mistake not, was according to population, or representation on this floor. I do not assert it, but I doubt whether those who favored the proposition then would favor it now. It would likely receive the treatment that the retrenchment system did. Its friends forsook it as soon so they obtained the power to act it out. I attribute no improper motives to gentlemen. They have a right to change their principles, their opinions, their actions. I only know that the proposition has been abandoned. The cause I know not.

I will now invite the attention of the House to another feature in the message. I will express my view of it, and in candor; so that if the President's friends attempt his vindication in reply, they may have somewhat to comment on. But perhaps I may be calculating on too much, when I suppose a reply will be attempted. I mean, sir, no compliment to my argument. But I well know, and his friends know, that silence is not unfrequently the safest reply that can be made. I have indeed heard the intimation, that the close of my speech is to be the close of the debate; the end of the resolution: that then an effort is to be made to stifle further examination, by laying the resolution quietly on the table! This may be an official mode of answering an unwelcome argument. It will not be the response which an insulted country demands. It will not satisfy the people that Congress seeks to be just. It may satisfy them, however, that the President has some little method even in his madness. The part of the message to which I allude is the following:

"The desire to embark the federal Government in works of internal improvement prevailed in the highest degree during the first session of the first Congress I had the honor to meet in my present station." Ah! and why did this insubordinate, unconstitutional, and refractory spirit prevail to such an alarming extent at such a time? I will explain the reason of its prevalence then. I will open the mystery for the benefit of the General and his friends. And, moreover, I will show that under his boast of the millions he had saved to the country lie carefully concealed his blighted promises and his violated faith. I have taken much trouble and pains to understand his course on this subject; for, sadly as I deplore much of his policy, I was one of his original supporters. I speak not of it boastingly! Heaven knows I do not view it in that light. I supported him for principles, which, one by one, he has sacrificed, from the greatest even to the least. This, if the occasion would justify, I could fully establish. Somewhat less than this the occasion will justify, and

public duty will imperiously require: an exhibition of his extraordinary partiality in sanctioning on the one hand, and vetoing on the other, appropriations which Congress had been pleased to make; and, what is more, when the principles involved in them were identical with each other. If it be said that I seek the gratification of personal feeling, injustice will be done my motives. I could gain nothing by it. I have, individually, nothing at hazard. I am seeking no office which the President can give; I am holding none that he can take away. I am as far beyond his reach as he is beyond mine. I am approaching the close of a term of service which was conferred on me without his aid; and he is also winding to the close of one which, thank God, was not conferred on him by mine. He cannot abridge my term, nor I his; but some portion of the brief residue of mine may be devoted to a comparison of his office-seeking promises with his office-holding performances. And why should I not do this? Am not I one of the Representatives of the West? And is not that country most deeply interested in the subject under debate? Whose interests have been so unceremoniously trampled on, or whose rights so shamefully sacrificed, by the double dealing of those in power? No one can fail to justify the principles from which I act. The President has asserted an interpretation of the constitution which blasts and withers all our hopes and all our prospects! If that interpretation remain unreversed, then our favorite system is gone, and gone for ever. He strikes at every improvement of a character common to the West, and therefore invokes the opposition of every western man. Sir, I am a western man. I entertain western feelings—and I am alive to western interests. In their defence I will resort to every honorable means of weakening the force of executive opinion. And to do this, when he is inconsistent, I will tell him so. When he is faithless, I will arraign him. When he has held two sets of opinions on the same subject, I will expose him, that his friends may perceive that, like other men, he is mortal; and, like other men, may err. But I hasten to the promised explanation.

Sir, those propositions multiplied at that time from this cause: while General Jackson was a candidate, he mounted on the brisk tide of western feeling. A large majority of that population have ever been in favor of internal improvements; this he saw, and this he knew. He induced the belief that he also would favor them. He heard us complain of former injustice. He heard our clamors against his predecessor. He heard us say that Mr. Adams, Don Quixote-like, was attempting to build castles in the air, and lighthouses in the skies. That he was a visionary theorist; neither understanding western interests, nor regarding western rights. Such were the opinions of many, but the declarations of many more. It was sought to pull down the administration of that man, that another might be raised on its ruins. Calumny from high places was employed; and honest thousands were deceived. How deplorably ignorant was the country of the worth of that slandered man! How little did they understand the purity and exalted patriotism of his motives! While others sought to bring reproach on his name, his liberal mind and expanded views were extended over the whole country! But a cloud of error hung over the West, and we were easily captivated by his rival aspirant's professions.

The opponents of General Jackson even then predicted what the country has since most sorrowfully realized. It was that, if he came into power, the last requiem might be pronounced over the grave of the American system. It was necessary to call him out on that subject. One or both Houses of the Indiana Legislature requested their Governor to ask of him an explicit avowal of his opinions and feelings relative to it. The call was made, and the answer given. And need I pause to state what that answer was? It is doubtless well remembered. He referred to his course while a Senator of the United States, and that course is evidenced by the journals now before me. I invite the attention of the House to it. And I would agree to forfeit my seat here, if I fail to demonstrate that his principles were different then from what they are now. If this be done, it will prove that his judgment is less to be relied on than if his views had been uniform and consistent. We may date his new lights on the constitution back to his rejection of the Louisville canal, and Maysville and Lexington road bills. Had he, in regard to these, contented himself to have said that there would not be sufficient revenue to meet all demands of a similar character, and gone no further, his position would not only have been plausible, but he could not have been charged with fickleness and inconsistency. Did he do this? No. He felicitated himself on having discovered a constitutional objection which would overturn the principle of all such appropriations. One of his objections was laughable. It was that the Maysville improvement was local. All improvements would be rejected on the same ground, as every improvement must be both limited and located somewhere. Did he mean that it must be general—that is, equal to all parts of the country in its advantages? This would be impossible. Such an improvement is not under the sun. Some one spot is benefited more than some other. Hence, to talk of rejecting it, because it did not extend and operate equally every where, was taking a position which a schoolboy should blush to assume.

Another ground, almost as absurd and untenable, was that the federal Government must not embark with States or corporations. Now to the journals, that we may see what he thought of these objections while a Senator. I believe, sir, there was a constitution then. And I believe that Senators, as well as Presidents, then took an oath to support it. In this particular I think the constitution has undergone no change since his service in 1824. I shall begin with the Senate journal of the second session of the eighteenth Congress, at page 193. You there have the following proceedings:

"Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the bill entitled An act authorizing the subscription of stock in the Delaware and Chesapeake Canal Company, together with the amendment reported thereto; which having been agreed to—

"On motion of Mr. Tazewell, further to amend the bill by adding thereto the following:

"SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to subscribe in the name, and for the use, of the United States, for four hundred shares of the capital stock of the Dismal Swamp Canal Company, and to pay for the same at such times, and in such proportions, as may be required by the rules and regulations of the said company.

"SEC. 4. *And be it further enacted*, That the Secretary of the Treasury shall vote for the president and directors of said company, according to such number of shares, and shall receive upon the said stock the proportion of tolls and emoluments which shall, from time to time, be due to the United States for the shares aforesaid.

"The motion was determined in the negative: Yeas 10, nays 31."

Of the ten, General Jackson was one. Of the thirty-one, Martin Van Buren was another. These individuals are now the first and second in command. Then on

different sides, and of different politics. But now, no alliance, except that of husband and wife, could be stronger or closer. It is a strange alliance; but what is still stranger, the lesser has controlled the greater. It is also an unfortunate alliance, for it has seduced the General from his original principles. He then voted to embark the "federal Government" with companies and States for the improvement of the country. Mr. Van Buren said no. And, since the alliance, the President says no, too. But before he was so seduced, his friends brought up similar propositions to those for which he had voted. In the mean time, the "tempter" entered. He prevailed; and former principles were forgotten, and former friends driven to desert their principles also, or desert the President they had helped to make. The journal proceeds thus:

"No further amendment having been made, the bill was reported to the Senate; and the amendment being concurred in--

"On the question, Shall the amendment been grossed, and the bill read a third time as amended?

"It was determined in the affirmative: Yeas 24, nays 18."

General Jackson for it, Mr. Van Buren against it. The former standing then, firm as a brazen pillar, in favor of promoting State commerce; the latter against the system.

As regards canals, I have said and shown enough. I have proved that the Chief Magistrate then voted for them; and he either then believed them constitutional, or voted against his sworn duty. The former was doubtless the case. I will now convict him of a like abandonment of his former principles in respect to roads. I will first refer to the same journal before quoted. At page 192 we have the following proceedings:

"The Senate resumed, as in Committee of the Whole, the bill entitled An act for the continuation of the Cumberland road, Mr. King, of Alabama, in the chair,

"On motion of Mr. Holmes, of Maine, to strike out the words 'Illinois and Missouri' from the twelfth and thirteenth lines of the first section,

"It was determined in the negative: Yeas 12, nays 33."

We here find General Jackson voting in the negative. He voted for the continuation of the road through those States, and he voted right. It is not to condemn his vote then, that I introduce this testimony. It is to prove the fact that he has since apostatized from the true faith. That he was then for bestowing on the States the advantages of good roads; that he was then for continuing them through the States; that he is now against it. Nor will any one dare contend that, in the continuation of the Cumberland road, there was any thing peculiar; any thing to render it more constitutional than the extension of a similar road through other States. But the journal proceeds:

"On the question, Shall the bill pass to a third reading? it was determined in the affirmative: Yeas 28, nays 16."

Of those in the affirmative the President was one. But where, in the mean time, stood Martin Van Buren? His name is found among the 16! He it was who said to the Western States, you shall have no continuation of this great highway! While you pay taxes to the Government—while you fight its battles, and bear its burdens, you shall only stand by and behold others riot on your hard earnings. You shall be allowed no participation in the benefits of your own treasury! This is the language of the vote; and yet he now dares look to the same people to make him "President" in his turn. The Western States are not so stupid as the numerous efforts to "civilize" them would indicate. They are too *eschute*, to be caught by Martin Van Buren. They know their rights; "and, knowing, dare maintain."

I will next invite attention to the journal of the first session of the 18th Congress. At page 315 will be found a series of proceedings, which the President would doubtless rejoice to see blotted from the book. These old records are often very troublesome things. I must, however, be pardoned for using them. An extract is in the following words:

"The Senate resumed, as in Committee of the Whole, the bill, entitled An act to procure the necessary surveys, plans, and estimates, upon the subject of roads and canals, Mr. Barbour in the chair.

"On motion by Mr. Smith,

"That there be inserted at the end of the first section the following proviso:

"*Provided*, That nothing herein contained shall be construed to affirm or admit a power in Congress, on their own authority, to make roads or canals within any of the States of the Union."

General Jackson voted against this proviso; and by his vote consequently asserts what it proposed to deny. For example, his vote admits and affirms in Congress the power, on their own authority, to make roads and canals within the States of this Union!

Mr. Chandler, then also of the Senate, proposed to strike out the word "admit," and insert the word "deny," in the foregoing amendment, as proposed by Mr. Smith. Against the latter proposition the General also voted.

The following proposition was then moved by Mr. Van Dyke, viz:

"*Provided, also*, That, previous to making any of the proposed surveys, the consent of the States through which the said surveys are to be made shall first be obtained by the President, from the Legislatures of the States, respectively, agreeing that such surveys may be made."

What said the "hero of two wars," and the projector of several more, to that amendment? He said, *no*. Thereby asserting that "the consent of the States" was not necessary! "Oh, consistency, thou art a jewel!" At page 321 the final vote was taken on the passage of the bill, where the name of the same consistent gentleman stands recorded in its favor.

Sir, I might weary the patience of the House with further testimony on this subject. It would be useless to the House. It would, perhaps, be cruel to the President. I must, therefore, forbear. But, in closing this part of the subject, permit me to subjoin one or two general remarks. I do not deny any man's right to change his opinions, when he finds himself wrong. To do so is a moral, a religious, and even a political duty. But, when he has changed, I deny his right longer to exhibit himself as the "pink of consistency." I deny his right to affirm that he has stood still, while he has been constantly marching. I deny his right, or that of his friends, to sacrifice others for refusing to follow him through all the changes to which he may be seduced. I deny their right to apply the term "apostate" to those who maintain their original principles, while this great father of changes is hailed for consistency.

Satisfied, as we all must be, that the "treasures belong alike to all," let us now inquire, how have they been disbursed? The House will pardon me for carrying this inquiry far back. I wish, indeed, to satisfy this body, and the country, that the legislation of Congress has never been right on the subject. I will, therefore, commence with the first appropriation that was ever made for objects of improvement, and will pursue them down to 1832, to which time we have official reports. We shall thus see what has been appropriated, first and last; for what objects, and where expended; and, above all,

we shall see whether a disgraceful system of partiality has not crept into the whole affair. In my estimate of amounts I shall not, I trust, be found in error, if the public records of the country may be relied on. I have made a laborious examination of them, and the following table will exhibit the gross sums which have been expended in the several States and Territories, for the objects stated. They are fortifications, lighthouses, and internal improvements. From these, the public journalists and secretaries have been pleased to distinguish the amounts subscribed for stock in canals, and this distinction is proper, as that is mere matter of contract and barter, the United States still holding the stock, and receiving a proportion of the dividends. They have also justly excepted the amounts for improving such streams as are the common property of all the States. They could be properly charged to no one State. The table follows:

States and Territories.	Total expenditure.	No. of militia.	Yr. last return.
Maine, - - -	$292,592 06	39,604	1833
New Hampshire, -	207,955 57	28,025	1833
Massachusetts, - -	1,669,885 26	44,973	1833
Rhode Island, - -	884,605 15	5,950	1832
Connecticut, - -	278,067 66	24,786	1834
Vermont, - -	5,916 36	25,581	1824
New York, - -	4,173,071 56	186,223	1832
New Jersey, - -	24,729 85	39,171	1829
Pennsylvania, - -	267,649 20	202,281	1834
Delaware, - -	854,030 81	9,229	1827
Maryland, - -	1,209,356 12	46,899	1833
Virginia, - - -	3,186,334 49	102,119	1833
North Carolina, -	1,236,762 42	68,498	1833
South Carolina, -	959,425 36	51,112	1833
Georgia, - - -	549,674 82	42,832	1831
Kentucky, - -	Nothing.	65,208	1833
Tennessee, - -	15,311 18	72,991	1832
Ohio, - - -	814,176 59	134,164	1834
Louisiana, - -	2,081,010 46	14,808	1830
Indiana, - - -	207,657 49	53,913	1833
Mississippi, - -	67,399 38	13,724	1830
Illinois, - - -	64,510 36	27,386	1831
Alabama, - -	1,495,384 36	22,446	1829
Missouri, - -	29,863 78	5,326	1830
Michigan, - -	198,208 38	5,476	1831
Arkansas, - -	51,070 82	2,028	1825
Florida, - - -	687,638 79	827	1831

I have remarked that the foregoing estimates reach only down to 1832. I have not had time to ascertain with certainty the appropriations since. They would not alter the general complexion of the table; they would only aggravate its injustice. It does not embrace the expenditures within the District of Columbia. No human ingenuity could ascertain them. I mean for the public works. Beside these, the District has had but little. Nor have I put down the amount of the stocks owned by the Government, as they cannot be charged to any State. I have presented the gross amount applied within each State and Territory, without specifying the objects, further than in classes. Opposite the names of each, I have placed the strength of their militia, and the year of their last return. It will afford no inconsiderable source of contemplation to the curious, particularly when their numbers for war shall be compared with the public expenditures within them in peace.

But having now demonstrated the unblushing injustice which has marked the course of public bounty, it remains that we seek the cause of it; for justification it has none. With former times I have nothing to do. Their events are spread out before us, but they are beyond our control. We may lament the evils of the past, but we can only hope to correct those of the future. I therefore confine myself to the causes assigned for a continuation of this scene of legislative outrage. The miserable apology which is pleaded for it, is that the constitution stands in the way; that much the greater number of improvements fall within its interdictions. And I will add that it is constructed to interdict much the more important ones. It is contended, for example, that you may make border improvements, but dare not approach the interior; that you may squander millions on the seaboard, but not a dollar within the States. Such doctrines offer insult to the plainest dictates of common sense. They have neither foundation in fact nor reason—in justice or constitutional law. Sir, I demand to know where the authority for such a distinction is to be found? To what article, section, or clause of the constitution can it be traced? I assert that it can be traced to none; and I defy those who maintain it, from the President down to his most obsequious follower, to attempt its vindication. Lest this may not be done, I will myself unmantle it, and expose its absurdity—its superlative folly. Preparatory to this, I will give you another extract from President Jackson's message. He says:

"My views in regard to the expediency of making appropriations for works which are claimed to be of a national character, and prosecuted under State authority, assuming that Congress have a right to do so, were stated in my annual message to Congress in 1830, and also in that containing my objections to the Maysville road bill.

"So thoroughly convinced am I that no such appropriations ought to be made by Congress, until a suitable constitutional provision is made upon the subject, and so essential do I regard the point to the highest interests of our country, that I could not consider myself as discharging my duty to my constituents in giving the executive sanction to any bill containing such an appropriation."

From the foregoing extract it will be seen that the President speaks the language of passion; 'tis surely not that of reason. He places the constitution over against every work "claimed to be of a national character, and prosecuted under State authority." To meet with favor in his sight, a work must be singularly situated. No one must dare claim that it is national in its character. No State must dare encourage it. For if so, it falls subject to the executive vengeance. And this futile distinction is charged to the account of the constitution. This preposterous dogma is affixed as a blot upon the bright escutcheon of those who framed it. It would seem to me that, if a work be "claimed to be of a national character," it should rather recommend than condemn it; and if thought worthy of being "prosecuted under State authority," that fact should raise a strong presumption in favor of its importance. But all the old rules of reasoning appear to be changed with the change of executive opinion. Those which have been sanctioned by the sages of other and better days are reversed, and therefore strange positions are assumed, and strange judgments are pronounced.

We have now seen what works are interdicted by General Jackson's new-born interpretation of the constitution. Let us next see what works he is permitted to view as meeting with its sanction. And I will again give his account of the matter, in his own language. He speaks thus:

"There is another class of appropriations for what may be called, without impropriety, internal improvements, which have always been regarded as standing upon different grounds from those to which I have referred.

allude to such as have for their object the improvement of our harbors, the removal of partial and temporary obstructions in our navigable rivers, for the facility and security of our foreign commerce. The grounds upon which I distinguish appropriations of this character from others, have already been stated to Congress. I will now only add that, at the first session of Congress under the new constitution, it was provided, by law, that all expense which should accrue from and after the 15th day of August, 1789, in the necessary support and maintenance, and repairs, of all lighthouses, beacons, buoys, and public piers, erected, placed, or sunk, before the passage of the act, within any bay, inlet, harbor, or port, of the United States, for rendering the navigation thereof easy and safe, should be defrayed out of the treasury of the United States; and, further, that it should be the duty of the Secretary of the Treasury to provide by contracts, with the approbation of the President, for rebuilding, when necessary, and keeping in good repair, the lighthouses, beacons, buoys, and public piers, in the several States, and for furnishing them with supplies. Appropriations for similar objects have been continued from that time to the present, without interruption or dispute."

The President "distinguishes" the works described in this last extract from those of the former. And how is this done? Is it by an appeal to the constitution? Does he point to any distinction which exists in that instrument? No, he cannot. He dare not. But he may safely point to himself, as its only authority, (Mr. Van Buren always excepted.) He may safely say that he is mightier than the constitution. For we have repeatedly seen it fall before him, as did the image of Dagon before the ark of God. But he says that "the first session of Congress under the new constitution" provided for the latter class of improvements. And this provision "by law" is to render them constitutional? And the others, for want of such provision "by law," are unconstitutional! Sir, it is difficult to repress my feelings of indignant contempt of such reasoning: sophistry, I should rather call it, for reasoning it is not. It is in substance this: the existence or non-existence of a constitutional power is made to depend on legislative enactment! And that I am right in this conclusion will more fully appear from the following extract from the same message. The President says:

"The convenience and safety of this commerce have led to the gradual extension of these expenditures: to the erection of lighthouses, the placing, planting, and sinking of buoys, beacons, and piers, and the removal of partial and temporary obstructions in our navigable rivers, and in the harbors upon our great lakes, as well as on the seaboard. Although I have expressed to Congress my apprehension that these expenditures have sometimes been extravagant, and disproportionate to the advantages to be derived from them, I have not felt it to be my duty to refuse my assent to bills containing them, and have contented myself to follow, in this respect, in the footsteps of all my predecessors. Sensible, however, from experience and observation, of the great abuses to which the unrestricted exercise of this authority by Congress was exposed, I have prescribed a limitation for the government of my own conduct, by which expenditures of this character are confined to places below the ports of entry or delivery established by law."

Look for one moment to the latter clause of this extract. It is "constitutional" to improve the navigation of rivers "below the ports of entry," but not above. Hence, if Congress should say that the uppermost spring or fountain of every stream in the United States should be a "port of entry," then it will be "constitutional" to lavish the public money on them, up to these points! The President seems to view the importance of the improvement as nothing; the port of entry as every thing. And, during this session, within my knowledge, his own friends have been compelled to seek advantage of his weakness on this point. Ports of entry are sought to be established, where the ferrymen will be sufficient to take account of the customs. Their huts will answer admirably for custom-houses, their yawls for revenue cutters, and canoes for shipping! On an appeal to the shades of our departed fathers, I would ask, is the sacred constitution to be thus trifled with? And are its principles, one by one, to fall as libations on the altar of an idol?

But there is another strange idea in the extract. He seems to think that "the convenience and safety of this commerce have led," among other things, "to the removal of partial and temporary obstructions in our navigable rivers," &c. Now, why should they not lead further? If the obstructions be general and fixed, or somewhat permanent they must not be removed. However important the stream, however loudly commerce may demand aid, it is to be responded, the obstructions are not "partial." They are not "temporary." Let them therefore remain! If I were not from a country which the "valley missionaries" report as being "unenlightened," I should here be tempted to interpose an appropriate Latin quotation. It would fully express my feelings; but for their sakes I forbear.

Now, Mr. Speaker, let us see what power is given to the President and Congress, by the constitution, over this subject; for I will not insult the House by inquiring what constitutional power is given by "congressional law."

There are two features in the constitution, to one or the other, or to both, of which this power must be traced. I mean, sir, if it exist at all. And that it does exist, I entertain no doubt or scruple. Those are the following: 1st. "To provide for the common defence and general welfare of the United States." 2d. "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes." To the latter I have been most frequently referred, as authorizing the improvement of the seaboard; the "power to regulate commerce with foreign nations." But it seems to be forgotten that in the same grant, and part of the same sentence, is the power to regulate commerce among the several States." If, then, it follow, from the first member of this sentence, that we may improve the exterior of the country, for the sake of foreign commerce, does it not equally follow that, under the second, we may improve the interior, for that of domestic commerce? Most assuredly it does, and the grant extends to all improvements, internal as well as external, or it extends to none. Not a whisper of "expenditures below ports of entry," or above. Not a whisper of works claimed to be of a national charcter, but prosecuted "under State authority," in all this. Not an intimation that the constitution invokes the aid of Congress to extend its powers, or render them operative.

But what of the first feature quoted—the power to "provide for the common defence and general welfare?" If this be relied on, suffer me to inquire, is "the common defence" limited to the seacoast? And are nothing but "forts" and "magazines" necessary to it? Are no roads, no rivers, no canals, necessary to the transportation of arms and munitions of war—of troops and provisions? Or are these only necessary around the exterior of the country? From whence come your supplies? And from whence your troops? Do you seek them on the border or in the interior? The answer is plain—'tis easy.

But the "general welfare!" And where is that located? On the seaboard, I presume; at least according to the President's new lights on the constitution. This was a wise and patriotic expression of our fathers, but it

is shamefully perverted. The spirit of that expression contemplates these States as united in bonds of feeling and brotherly affection. It views the whole as one body composed of different parts—with different functions, yet with common interests and common rights. 'Tis, then, like the natural body, a whole, sensitive for all its parts; for though its interests, in size or shape, or its parts in form or function may be different, as in the natural, yet, in the political body, the healthful action of all equally depends on the healthful action of each.

Who, then, will dare limit the "general welfare" to the border of the country? It would be to put on the decorations of fashion, and yet deny the system food! What would be said of the cultivator, the agriculturist, who would practise on such a principle? He shall start under authority to "promote the general welfare," or value, or improvement of his patrimony. But he shall exhaust his entire resources in the erection and decoration of an enclosure around it. You enter that enclosure, and what meets the eye? Perhaps a most valuable inheritance, but overspread with its native wildness. Instead of an earthly paradise, you enter a waste, howling wilderness; uncultivated, and unpruned! Would you admire the wisdom of such an arrangement? And when informed that he acted up to his interpretation of his powers, would you admire the personal wisdom of such a man? No; you would say that some benevolent chancellor should interpose, and afford him some "lawful assistance" in the construction of his powers, opening to him some new principle for "promoting the general welfare" of his estate.

I then assert, sir, that there exists a constitutional authority to extend internal improvement over the whole country, or over no part of it. The frequency and extent of the exercise of this power should be regulated by two considerations. First, the ability of the treasury; secondly, the importance of the work. I would not individually favor the plan of taxing the States in an oppressive manner, to carry on what some have called a magnificent scheme. 'Tis better to leave the money with the States, and leave it to them to apply it. But, when there is a surplus in the treasury, I assert the right of each State to its proportion of that amount; and I assert it on the broad principles of eternal justice. Under the present practice, what do we see? We see the hard earnings of the many seized on by the few. I do not complain that the seaboard is cherished; I do not complain that any section of the Union receives; but I do complain of that gross inequality which gives so unequally to those who are permitted to receive, and denies to others the right to receive at all.

And are those who complain to receive no other consolation than to be told they are honorable tax-payers? Are they, after having joined in creating this fund, to stand by and hear some mammoth State, or combination of interests, assert as many claims to the whole of it as were asserted by the hungry lion to the whole carcass? And must they retire equally discomfited and abashed before his roaring majesty? Never! no, never. Sir, it is not in the spirit of that State from which I come to yield up her rights in this way. She is proud of the Union, and will expend her treasures in peace, or her blood in war, to maintain it. This loyalty to the Government is not, however, the offspring of your justice. She stands the seventh in the Union, for the strength of her militia; nor behind the first for their valor. One blot of slander aside, and her character for chivalry is spotless. And the bloody banks of the ever-memorable Raisin would stamp the epithet of "calumniator" on him who would assail it. But if the nation has no other use for that State than to bear the burdens of peace, and fight the battles of war, let it be plainly announced. I thank God she is able to make her own roads and improve her own rivers. You may insult her by your injustice, but you can never humble her conscious pride, nor diminish her abundant resources. I lately submitted an inquiry concerning one of her important roads. It was rejected. I viewed its rejection as a gloomy augury of the fate of the system. It may perhaps be the signal which shall induce the West to take a new position on the general subject. They cannot, they will not, abandon the principle; but they may seek to practise it at home, and to suspend it abroad, for better days. They can anticipate none which can be worse. As one of her Representatives, nevertheless, I should disdain to make the measure of injustice to her the only principle of my action. To her the national injustice is greatest; but I count the principle involved as worth infinitely more than the dollars and cents which the treasury could give her. Where is the nation under heaven that has ever prospered, whose legislation has been conducted without regard to public justice and general improvement? The instance cannot be furnished from abroad. It cannot be found at home. Compare the condition of New York, with her numerous improvements, with that of most of the other States; the profit of her public works yielding perhaps an abundant revenue for all her State purposes. And such might, and soon would be, the condition of the United States in the aggregate, if a wise and liberal spirit pervaded their executive mansions and legislative councils. My resolution, sir, proposes, first, an inquiry in respect to "the most equal and just mode of applying the revenues of the country to works of public improvement." Can any gentleman excuse himself to his own conscience, who will resist that inquiry? Can he excuse himself to his constituents? I am sure I could not.

It proposes, secondly, an inquiry in respect to the best and most practicable mode of ascertaining the importance and "nationality" of proposed improvements. Is not this necessary? Or are gentlemen prepared to favor or reject propositions without understanding either their merits or magnitude? But, Mr. Speaker, I now approach the close of my remarks. The decision of this question may regulate my course during the residue of this sitting, on the subject of appropriations. It may also influence others. I anticipate that it is the last struggle I shall ever make on this floor for the system, as the present session will likely close my services here for ever.

But the termination of my political labors will not terminate my zeal for my country, for its interests, its honor, its prosperity. I have sorrowfully witnessed the assaults which have been made, within the last few years, on this great system. A system which, if prudently and wisely pursued, would elevate the American Republic to the highest destiny allotted to nations. I am aware of the still more fearful dangers that even now threaten it. But its friends will watch over it, and with feelings somewhat similar to those of the fond mother, who watches over the dying couch of a beloved child. She gazes on each change of color and countenance—she hopes—she weeps—and still she prays. On that anchor which sustains us to the last, the anchor of hope, she rests, until the last pulsation ceases, and the last vital spark is blown out. 'Tis then that she hopes no longer, but exclaims "'tis finished." The work of death is done. Thus our hopes may eventually perish: and thus may terminate a nation's march along the tide of fame and fortune. Sir, I am grateful to the House for its kind indulgence, and will no longer detain it. I ask that the question may be decided by yeas and nays.

When Mr. CHILTON had concluded, the hour allotted for the consideration of morning business having elapsed,

Mr. CLAY, of Alabama, rose and reminded the Chair and the House that, several weeks ago, the "bill to reduce and graduate the price of the public lands" had

been made the special order for this day. He inquired of the Chair whether this bill would not have precedence over other special orders?

The SPEAKER replied in the negative; remarking that when the day arrived for the consideration of another special order, since that of the "navy bill" had been pending, he had given his opinion that the unfinished special order had precedence, and that the House had then acquiesced. The Speaker also mentioned the several special orders which had precedence over the bill mentioned by Mr. C.

Mr. CLAY remarked that the decision heretofore pronounced by the Chair, had (perhaps from inattention) escaped his notice; that he did not wish to interfere with other special orders, if he could avoid it, and would therefore, for the present, acquiesce in the course indicated as the proper one by the Chair.

PAY OF THE NAVY.

The House then proceeded to the consideration of the unfinished special order, being the bill to regulate the pay of the navy of the United States.

The amendment pending at the hour of adjournment when the bill was last under discussion, offered by Mr. R. M. Johnson, of Kentucky, which raises the salaries of passed midshipmen and midshipmen, was read and agreed to, after being assented to by the chairman of the select committee, [Mr. Watmough.]

Mr. GRENNELL proposed to amend the clause relating to clerks of navy yards, by raising their pay from 900 to $1,100 per annum.

Mr. G. said, he was not disposed to obstruct the passage of the bill, towards the general features of which he felt favorably disposed; but the more he had reflected on this point, the more firmly he was convinced of the justice of the amendment he had submitted. The office belonged to what might be properly called the civil department of the navy--a class too apt to be overlooked. Mr. G. said he should go for the bill, though it contained some objectionable features; some of the salaries, he believed, were placed at rather too high a rate; but this important office, that of clerk of navy yards, was, in his view, disproportionately too low. The duties of that officer were onerous and responsible. He not merely kept the accounts of the yard, but had charge of the correspondence; not, as had been supposed, barely to file that correspondence, but was himself the writer, and should possess talents and receive a compensation correspondent to his duties. A chaplain received $1,200 per annum, while a clerk's duties were certainly much more severe. He did not deny the importance of the duties of the former officer; but it would be admitted they were only required twice a week; while the clerk must be in attendance every day, from sunrise till sunset; and even Sunday did not bring a Sabbath to him. Mr. G. here enumerated all the duties of clerks; and appealed to gentlemen to admit that compensation was not in proportion to that given to other officers. He said it ought to be remembered that the salary of the clerks in the yard at Washington had always been $1,000 per annum, until the last year, when it was reduced by the navy commissioners to $750. He hoped the amendment would prevail.

[Here Mr. Lewis, of Alabama, obtained leave to lay a motion on the table to reconsider the vote of Saturday last on the bill for the relief of Susan Decatur, the consideration of which was postponed to Friday next.]

The question was then taken on the amendment of Mr. Grennell, and it was rejected without a division.

The question now being on the engrossment of the bill--

Mr. ALLEN, of Va., stated that, if the motion would be in order, he would move to commit the bill to the Committee on Naval Affairs. I feel myself (Mr. A. said) constrained, from various considerations, to oppose the passage of the bill in its present from. I am aware that the navy is the favorite arm of national defence. Its gallant achievements have won for its officers imperishable renown, and elevated the character of the nation. I fully participate in the respect and gratitude so frequently expressed in the committee and the House to its heroic officers; but though I yield to none in my regard for the navy, I cannot consent to be carried away by the impulse of gratitude for past services, and pride in the glory of our marine, to sanction a bill which, in moments of calm reflection, my deliberate judgment could not approve. I always feel inclined to distrust the wisdom of legislation springing from excited feeling, instead of being the cautious result of an enlightened judgment. Examples are not wanting, even in our own history, that such legislation has frequently been followed by disastrous results. I should distrust that legislation which, flowing from an ardent but overheated devotion to the abstract rights of man, would, in a spirit of mad fanaticism, carry out its principles by a practical application to a particular class of our population, in utter disregard of the rights of those amongst whom they dwell, and of their own best interests. The benign spirit of philanthropy, gradually infusing itself into the public mind, has softened the rigors of our penal laws; but I distrust the legislation which, proceeding from sympathy with misfortune and distress, would subvert all distinctions between right and wrong, and convert what was intended as a punishment into a reward for crime. What theme could be selected so well calculated to elevate the pride and warm the feelings of the House, as the gallant achievements of our naval heroes? But I distrust the policy of an enactment which is urged upon us by such appeals; and, alive as I may feel to the honor shed upon our name by their exploits, this alone will not satisfy me of the propriety of passing this bill. It should also be remembered that the officers who would receive this additional compensation were not generally those who so brilliantly distinguished themselves during the late memorable contest. Most of those officers who had acquired so much reputation for themselves, and shed such lustre on their country in the late war, had passed to their final reward. They had been reared in the old school of republican simplicity, and were content with what their country had awarded them, and the fame acquired in her cause. The increase in pay now contemplated is mainly for the benefit of their successors, the majority of whom have never, perhaps, had an opportunity of signalizing themselves. And the advance is advocated upon the brightness of the reflected glory of their predecessors, to whom no such addition was accorded. I am somewhat startled, too, at the amount already expended for the pay of the officers of the navy under existing laws; and therefore the more inclined to pause before consenting to so great an increase. And it should be borne in mind that the change created by the bill will be permanent; it is part of a system intended to continue, and, when once established, there is but little probability of any reduction hereafter; for I believe the instances of reduction in salaries are of rare occurrence. We now have, in all, 1,049 warrant and commissioned officers in the navy, whose annual compensation amounts to $770,000. The bill, as originally reported, proposed an increase of $116,000; but, not content with this, by the amendment now under consideration, the amount has been swelled by the additional sum of $84,000; and if the bill passes in the shape it has now assumed, you create a permanent charge upon the people for the pay of these 1,049 officers, of one million of dollars a year at least. The glory of the navy should not prevent us

from giving this matter a careful examination. Why, sir, I will venture the assertion that this sum was as great, if not greater, than is required to support the whole machinery of civil government in the three States of New York, Pennsylvania, and Virginia, containing near five millions of people—I mean the ordinary expenses of their civil government.

In looking at the resolution from which this bill has originated, I discover, Mr. Speaker, that the committee was instructed to inquire into the propriety of equalizing the compensation of the officers of the army and navy. I know not under what impression the honorable mover of this resolution acted. The impression made by it on my mind, and I incline to think on others, was, that an inequality existed between the pay of the officers of the army and navy, to the disadvantage of the latter; that an unjust and disparaging discrimination was made by the present law, not justified by any thing in the past history of the country, the duties they were respectively required to discharge, or the responsibilities devolving upon them. In the course of the discussion which occurred in the committee, on the details of the bill, it appears to have been generally assumed as true, that the officers of the army received the higher pay. I hear of no complaints coming from the army that their pay is insufficient. It is understood they are satisfied with the present rate of compensation. If it can, then, be satisfactorily established that the pay of the naval officers, of equal rank, is equivalent to that of the army, so much of the argument as seeks to sustain the increase now proposed, upon the supposition of an unjust discrimination, is not applicable to the case. I doubt whether this bill would so far have been apparently so favorably received, if there had not been an impression that gross injustice was done to the officers of the navy, when compared with the army, by the existing laws. However it may be with others, this consideration has had some influence with me.

I do not, Mr. Speaker, profess to be intimately acquainted with these matters. I have attempted, however, from such sources of information as were at hand, to ascertain what was the real compensation allowed to the officers of the army, by law; and, unless I have been misled, it seems to me, according to existing laws, the navy has no just cause of complaint on this score. To arrive at a correct conclusion on this branch of the subject, it should first be determined what it is that constitutes the pay of the army. Their remuneration, especially to field officers, and those attached to the staff, is apparently increased by allowances; I say apparently, for a slight examination shows that these allowances are not properly to be estimated in ascertaining the amount of pay given the officer for his personal services. An allowance is made to certain officers for forage for horses; but you exact from them duties which cannot be performed unless they are mounted. The allowance, too, is contingent; it is not paid unless the horses are actually kept; and, when kept, the amount allowed is not, upon a fair average, more than sufficient to cover the expense. When forage is cheap, it would, perhaps, exceed the cost; at other places, it falls short of it; and, when it is considered that the horses are to be purchased with their own funds, and kept at their risk, it is evident that this allowance is not extravagant; that it does not more than meet the actual expense incurred. So in reference to quarters: the officer is stationed to-day on the lakes; to-morrow he may be ordered to the coast of the Gulf of Mexico; at one time he is in one of your forts on the seaboard, at another in the western wilderness. You cannot expect him to find his own quarters. Where they are furnished, he receives no allowance for them; where, as at many points he must, he procures them, you allow him a sum sufficient to defray the expense; it may exceed or fall short of it, depending upon the rates he has to pay. The same remarks, it is believed, will apply to most of the other allowances. They are contingent—not allowed except the expense is incurred. You make them, that he may discharge his duty to you. He cannot commute them into money, and dispense with the use of that for which the allowance is made. When you subject him to these extraordinary expenses, you indemnify him; and, though the use of that for which the allowance is made, may contribute to his own comfort or recreation, it is manifest the allowances themselves should not be estimated as a part of his salary. You might, with the same propriety, charge the musket to the pay of the common soldier, because he may use it to defend his person, or to procure for himself some additional comfort. The monthly pay and subsistence of the officer were intended to constitute the consideration for his personal services; to compensate him for relinquishing the pursuits of civil life; to remunerate him for devoting his time to your service. These he may call his own; for these you do not require to be expended in the performance of duties to you. To this fund he must look for his own support, and to make provision for his family. And what does it amount to? I perceive from the Blue Book, which I presume has been compiled by the proper officers, after reference to the law, that—

A major general receives $200 per month, and 15 rations, equal to	$3,480
A brigadier general receives $104 per month, and 12 rations, equal to	2,112
A colonel receives $75 per month, and 6 rations, equal to	1,332
A major receives $50 per month, and 4 rations, equal to	888
A captain receives $40 per month, and 4 rations, equal to	768
A lieutenant receives $30 per month, and 3 rations, equal to	576

Now, sir, let us compare these salaries with the amount allowed to officers of the navy by existing laws, and see what ground there is for the assertion that the first are better paid. I find it stated in a register before me, that:

A captain commanding a squadron on separate service, receives	$2,660 00
Of a ship of the line or frigate of 32 guns or more,	1,930 00
Of a sloop over 20 guns,	1,447 50
Waiting orders,	1,930 00
A master commandant of a sloop over 20 guns,	1,447 50
Under 20 guns, or waiting orders,	1,176 25
A lieutenant in command,	1,176 25
On other duty,	965 00

By this it would seem that a commander of a squadron is better paid than a brigadier general; and a captain of a ship of the line or frigate but little less; that the commander of a sloop of war receives more than a colonel; a master commandant of a sloop over twenty guns more than a colonel; and that the lieutenant is better paid than a major. The officers of the two lower grades in the army, captains and lieutenants, seldom receive any of those allowances which apparently swell the salaries paid to the field officers, and the amount received by them would serve to prove what was intended to be a compensation for the personal service of the officer. The captain of a ship may not receive as much by way of allowances as the higher grades of the army, and for the plain reason that his duties do not subject him to the expense which these allowances are intended to meet. Forage he does not require; quarters he does not need; the ship is his home when afloat.

But what would be the relative compensation of the

officers of the land and naval service, should the present bill become a law?

A captain commanding a squadron will receive	$4,500
On other duty, - - - - -	4,000
Waiting orders, - - - - -	3,000
A master commandant on sea service, - -	2,500
On other duty, - - - - -	2,000
Waiting orders, - - - -	1,800
A lieutenant in command, - - -	1,800
On other duty, - - - - -	1,500
Waiting orders, - - - -	1,200

Is there any thing in the naval service which justifies so marked a discrimination in their favor?

Their service, we are told, and truly, is one of peril, even in times of peace; but its dangers and perils, the excitement it furnishes, give it charms to the enterprising mind. In the performance of their duty they visit every clime; are brought into contact with every nation; and in succession contemplate all those spots hallowed by the deeds of the past—places consecrated by the pen of history, and resorted to by the wealthy and wise of all countries. They are constrained, it is alleged, to take long voyages; to be absent for years from their families and homes; this is one of the conditions charged upon their tenure of service. They knew it when they engaged in it. But, in return for this privation, they are indulged with long furloughs—an indulgence which, to the same extent, it is believed, is not allowed to the army. The profitable situations of commanders of navy yards and commissioners of the navy are provided for them; and when the nation is engaged in hostilities, they may, if fortunate, enrich themselves by the prize-money received for every capture both of public and private vessels. The officers of the army possess few or none of these advantages. Their time is consumed in distant frontier posts, cut off from society, with nothing to excite, little to interest; wearing out a monotonous existence in the performance of their dull, unvarying routine of duties: and the fortune of war holds out no prospect of any advancement except by promotion. They cannot apply the public force to enrich themselves; what they capture belongs to the nation. They are now content with the compensation allowed them. It has been fixed with a due regard to what they might have made, and others do realize, in the different walks of life. But if this bill passes, will they not be dissatisfied with their pay? Would you not give them just cause of complaint, should the inequality continue? Are the duties of commanders of squadrons more onerous than those of a major general? of captains of single ships greater than those of your brigadiers? Are not the responsibilities of a colonel as heavy as those of a lieutenant of the navy? But if rank is to be measured by the rates of compensation, each of your thirty-seven post captains, when in command of a squadron, would outrank a major general. They would take precedence of your brigadiers, and two hundred and fifty lieutenants of the navy would be placed on higher grounds than a colonel charged with the command and responsible for the safety of a regiment of men. In the spirit of equal justice to all your officers, would you not feel constrained to equalize the compensation? Should this bill, as it now stands, become a law, you add more than two hundred thousand dollars per annum to the permanent charges upon the nation. How long will it be after you have made such a vast addition to the pay of the navy, before you will feel yourselves under the necessity of adding nearly an equal amount to do justice to your army? I wish not to make any invidious comparison between the officers of the army and navy: all, in times of peril, have deserved well of the country. I would be the last to underrate the glorious achievements of the navy. I am disposed to give due credit to the merit of the officers and the importance of their services; but I am not disposed to withhold from our gallant officers of the army a like tribute of admiration. The laurels gathered by a Scott and a Gaines on the fields of Canada are as green as any that decorate the brows of our naval officers. Nor do I believe the country is prepared to give to every captain in the service a higher compensation than our brigadier generals receive.

Among other reasons which have been urged for this great increase of pay, we are told that our naval commanders are, from their positions, subjected to extraordinary expenses. They come in contact with officers of foreign nations; they receive, and are expected to reciprocate, civilities; and that their present compensation is not sufficient to enable them to do this without great pecuniary sacrifices. The argument may be entitled to more weight than I am disposed to give it. Supposing it to be correct, and that they should be furnished with the means to meet this extraordinary expense, why not confine the allowance to the occasion which calls for it, and to those who are subjected to the charge? But is this argument entitled to the weight which honorable gentlemen are disposed to allow to it? Does it comport with the genius of our institutions and republican simplicity of manners, to countenance and encourage habits of extravagance and profusion in any of our public servants? Is the dignity and importance of our country best manifested abroad by idle shows and pompous displays? The professional pride of the officers would be better exhibited in the discipline of their crews, the order of their ships, and their fitness to perform all for which they were sent abroad. The character of the country will be better sustained by showing that a navy equally efficient with that of any other nation can be maintained without surrounding it with all the circumstances of rank, and pomp, and pride. And though they might not strike with astonishment the luxurious populace of Italy or Spain, the intelligent part of the people even of those countries would regard them with more respect. We have heretofore proceeded upon the maxim that the good of the whole was to be consulted; that we pay not for the honor of being commanded, but for services actually rendered. The practice of other Governments has been to advance the interests of a few at the expense of the many. But even in Europe this doctrine is becoming unpalatable. The long-suffering people are beginning to look more narrowly into the nature of government and the rights of the governed. And are we, when they are beginning to discard these doctrines, to become enamored with them, and adopt them in our practice? If so, create your admirals; send them abroad with the rank, and supply them with the means to compete in extravagance with the titled admirals of England. But do not go beyond the most corrupt of European Governments. They do not carry the system of profuse expenditure through all grades of the service. The subordinate officers in our service are, if I mistake not, already better paid than officers of corresponding grade in any other service on the globe. Such I am assured is the fact in reference to the army, and I doubt not will be found to be the case with the navy. We are apt to deceive ourselves, or permit others to deceive us, as to the great economy of our Government. A few of the higher officers are selected, and a comparison made with other nations. The foreigner sees a President, the Chief Magistrate of our immense Republic, discharging the executive duties of his high office, and receiving a salary of $25,000; he observes a few Secretaries, with salaries of $6,000 each, performing all the duties of their cabinet ministers. He contrasts these small salaries with the millions drawn from the people to feed the extravagance of Kings and favorites; and, so far, the contrast is highly flattering to us. But

he extends his investigation no further. In reference to all subordinate officers, the comparison would not hold good. In no country are such high salaries paid for similar services. Nor is this, in fact, a subject of complaint. It is in conformity with the principles of our Government; we aim to make a just compensation to all for their services. The subordinate, who faithfully performs the duties of his station, is entitled to a fair remuneration; and he who fills the highest is entitled to no more. Extravagant salaries to any are against the feelings of the people. By this bill you give thirty-seven captains of the navy higher salaries than you allow to any officers of the Government, with very few exceptions. I should deprecate so large an addition to the pay of the officers, from another consideration. Men of wealth, and that influence which wealth gives, would seek for places in the navy as a provision for their relatives. The industrious classes, and the hardy mariner, destitute of the means of pressing their claims, would soon be excluded from all participation in these lucrative appointments.

May I not venture to suggest to those who so ardently advocate the passage of this bill, that, in their zeal, they may inflict an injury on the establishment itself? We keep in commission a ship of the line, a frigate, and a sloop or two in the Mediterranean; a frigate and a sloop, perhaps, in the Pacific; and a few sloops in the West Indies, and on the coast of Brazil. Pass this bill, and the pay of the officers alone will amount to $1,000,000. What would be the expense of a navy, not such as England keeps afloat, but sufficient to defend us against the aggressions of France? She, with a revenue of about $200,000,000, defrays the expenses of her Government; the interest of her debt; maintains near four hundred thousand men under arms; and sustains a navy of near one hundred and fifty ships, a large proportion of which are kept in commission. At our rate of compensation, the whole revenue of our country would not suffice to defray the expenses of her navy. High as the navy now stands in public favor, is there not some danger in presuming too much on its popularity? May not the people, on finding themselves weighed down by these heavy charges, awaken from this dream of glory, and inquire whether they have not paid for it at too dear a rate; and, from one of those revulsions in public opinion to which nations are so subject, be inclined to inquire whether there was not more wisdom in the Jeffersonian policy of withdrawing ourselves from the danger of collision with other Powers on the ocean, than any of us are now willing to ascribe to it?

Passing from this branch of the bill, it contains another provision which, it seems to me, is highly objectionable. It is the section which sets apart three per cent. per annum of the pay of the officers, to be invested and constitute a fund for the relief of the widows, children, and other relatives of deceased officers. The whole pay would, by this bill, amount to about $1,000,000, and $30,000 will be annually set apart to increase the capital of the fund. As a system like this, when once established, becomes permanent, in the course of twenty years there will be a capital of $1,000,000, and the dividends arising from it are to be distributed amongst the relatives of the officers who may die in the service. Notwithstanding the able and ingenious support which that provision has received from my colleague, [Mr. MASON,] it still seems to me that this would be an extension of the pension principle to a new class of cases, and therefore a most dangerous precedent. Even if not liable to this objection, if the view taken of it by my colleague is the correct one, it occurs to me such an enactment would involve the exercise of a very questionable power, would be unjust in its operation, and demoralizing in its tendency. If liable to all or any of these objections, the House will not, I feel confident, give its assent to the bill in its present shape.

According to my view of this subject, this provision should be considered as making an appropriation out of the treasury for a new class of pensioners. The salaries of officers are a fair remuneration for their services. You propose to make them a just compensation, and you are not warranted in doing more. But if, after creating the salary, by the same law you withhold any portion of it to create a fund not for the use of the officer, in which he cannot participate, your law itself contains an admission on its face that the salary was too high; that a sum less by the amount so withheld was a sufficient compensation for the services of the officer.

If so, it should not have been granted by way of salary; and though in form it may be called a part of the salary, it is by indirection an appropriation of money out of the treasury for the purpose to which you apply it. And for whom is the provision intended? Is it to be confined to the relatives of those who fall in your service? No, sir; it is for the representatives of deceased officers, no matter how they may have died. The cases in which pensions are now allowed grow out of contract with the individual. I do not allude to the revolutionary pensioners; they stand on peculiar grounds; but to the ordinary cases, where men are disabled or killed in the land and naval service. You give the invalid a pension, and you make a temporary provision for the widow and children of the individual who is killed; and this, as I contend, is done in pursuance of previous engagement. You engage him in a perilous service; he may be so disabled as to be unable to provide for his support, or cut off without an opportunity of providing for those he leaves behind. In view of this, you stipulate to support him, if disabled; or, should he fall, to make temporary provision for his family, until they can look out for other means of support. It is part of the consideration which, upon the contingency occuring, you agreed to pay and for which he agreed to serve.

But this bill proposes to create a fund for the support of those who have performed no public duty, to whom you have contracted to obligation. It, in fact, imbodies the principle of the European pension system, by which the families of royal favorites have been quartered upon the treasury. It is vain to urge, in defence of this provision, that the service is arduous; that they are deprived of opportunities of improving their condition, which others possess. I admit the service to be arduous, surrounded with danger; and, when fixing their compensation, let us, as I contend we have done, pay due regard to all these considerations. Let the dangers they are exposed to, the privations they undergo, every disadvantage they labor under, enter into the elements of computation, and, with a due regard to all these considerations, pay them liberally, munificently if you will; and when you have done so, you have fulfilled all that could be required of you. Do not extend your liberality beyond the officer to his kindred and relatives. Leave it to him to make provision for them. Otherwise, a pension system, more odious than any which we have knowledge of, will be established by law.

My colleague, however, contends that this is an improper view of this provision. He, I know, would be the last man here who would consent to a bill containing a direct appropriation to pension those who had not rendered any service to the country. He maintains, and I think correctly, that the salary of the officer is intended to be something more than a mere provision for his personal support; it should be sufficient to enable the officer not only to support himself in a respectable posi-

tion in society, but to make some provision for his family. It should be regulated with reference to the order of intellect you require, the responsibilities you impose, and the services you demand; and, in advocating this bill, he is actuated by the conviction that the officers are fairly entitled to the salaries you propose to allow. Whence, then, does he derive the right to withhold a part, to be applied to any other purpose? Is the salary proposed no more than a fair equivalent for the services to be rendered? Would my colleague support it, if he thought otherwise? But, if it be no more than his services entitled him to, (and by allowing it you recognise the justness of his claim upon you to that extent,) the money is his—his private property; and where is your authority to deprive him of it? Would my colleague consent to such an interference with his private rights? Would he attempt so to interfere with another? We are told the officers consent to the insertion of this provision in the bill. Who is empowered to consent for the whole of them? Unless each individual has given his assent, he ought not to be bound by it. And even if every officer now in service had given his assent, would that bind their successors?

But if your right to enact such a law was unquestionable, it would be unjust in its operation. The prudent, economical officer will manage his own funds better than you can do it for him. He best knows who have claims upon him, and how to fulfil them. Some are without families, others have relations and friends dependent upon them, who would not be embraced by any general rule you may adopt. He is not permitted to dispose of the money deducted from his pay. It may be given to a stranger, to the prejudice of the officer, and of those who might have been the objects of his bounty.

But if free from every other objection, it seems to me the tendency of such a law would be injurious to the character of the navy. Concurring in all that has been said in commendation of this gallant corps, I still question the policy of subjecting them to the influence of such a law. Our naval officers, high-minded as they are, are yet men, operated upon by like influences, actuated by similar motives, and exposed to the same temptations as other men. Next to the high sense of honor which distinguishes them, what higher motive for well doing can be presented to them than the desire to provide for their families, and to improve their condition in life? This motive stimulates the exertions of all other classes; and the reflection that those having the highest claims upon us are to be benefited by our efforts, cheers us in the hours of toil, and invigorates to renewed labors. The reflection that those nearest to him will reap the rewards of his toil, or suffer from his indulgence, excites to action, or restrains in the moment of temptation. But, adopt this bill, and you remove from the officers of the navy this motive for exertion, this guard against improper indulgence; you say to them, in effect, eat, drink, and be merry, to take no thought of to-morrow; for that you, not out of their funds, but from the hard-earned pay of their brethren, would provide for their families. The officers themselves should not desire such a provision. It creates an odious distinction between them and their fellow-citizens. And though it might not materially influence those now in service, whose habits are fixed, it must eventually operate injuriously upon the officers themselves. If I had no other objections to this bill, if the salaries proposed by it did not seem to me as extravagant, I could not vote for it while this section remained.

I have presented such objections as it appears to me exist to the passage of this bill. It is probable, indeed I feel satisfied, that the compensation is, in some instances, now insufficient; and that inequalities exist amongst the different grades, which should be corrected. It is probable, after the discussion which has taken place, a bill could be framed which would do justice to the officers, and be satisfactory to all sides of the House. With the hope of seeing this accomplished, I move its commitment to the Naval Committee.

When Mr. Allen had finished his remarks,

Mr. MANN moved, as an amendment to the motion, to add the following words: with instructions to report a bill to equalize the pay of the officers of the army and navy.

Mr. M. said, if it was the pleasure of the House to proceed further in the debate to-day, he was prepared to say a few words on the subject. To test the disposition of the House, he moved an adjournment; which was agreed to: Yeas 90, nays 42.

The House then adjourned.

Tuesday, January 6.

EULOGY ON GENERAL LAFAYETTE.

Mr. HUBBARD, from the joint committee appointed on that subject, reported the following correspondence between the joint committee and John Quincy Adams, on the subject of the address delivered by the latter on the life and character of General Lafayette:

To the Hon. John Quincy Adams:

Sir: We have the honor to present to you official copies of the joint resolutions adopted by the Senate and House of Representatives on the 2d instant, expressing the thanks of Congress for the appropriate oration delivered by you in the Hall of Representatives on the 31st ultimo, on the life and character of General Lafayette, and authorizing a request to be made to you for a copy of it for publication.

Having shared the high gratification of hearing the oration, we take pleasure, in pursuance of the second of the joint resolutions, in requesting you to furnish a copy of the oration for publication.

We have the honor to be, with great respect, your obedient servants,

HENRY CLAY, *Chairman*
of the committee on the part of the Senate.
HENRY HUBBARD, *Chairman*
of the committee on the part of the House.

January 5th, 1835.

To Messrs. Henry Clay and Henry Hubbard,
Chairmen of the joint committee of arrangements of the Senate and House of Representatives of the United States, to carry into effect the resolutions of Congress in relation to the death of General Lafayette:

Gentlemen: I received, with deep sensibility, your communication of the joint resolutions of both Houses of Congress, upon the oration delivered before them on the life and character of Lafayette.

The kind indulgence with which they have accepted the endeavor to give effect to their purpose of paying a last tribute of national gratitude and affection to the memory of a great benefactor of our country, will be impressed upon my heart to the last hour of my life.

With this sentiment, I shall take pleasure in furnishing, as requested, a copy of the address for publication.

I am, gentlemen, with the highest respect, your fellow-citizen and obedient servant,

JOHN QUINCY ADAMS.

Mr. HUBBARD remarked that the oration was now under the control of the House. It had been considered by the joint committee that it would be most proper for each House to act independently in regard to having it printed, inasmuch as there was no printer to Congress. He asked leave to present the following resolution:

Whereas it was resolved, at the last session of Congress, that JOHN Q. ADAMS be requested to deliver an oration on the life and character of General Lafayette, before the two Houses of Congress; and, in pursuance of that resolution, and sundry other resolutions which have been subsequently adopted, Mr. ADAMS, on Wednesday, the 31st day of December, 1834, in the hall of the House of Representatives, and in the presence of both Houses of Congress, and also in the presence of the President of the United States and the heads of the respective Departments of the general Government, and of a most numerous assembly of citizens, did deliver an oration replete with those pure and patriotic sentiments which will be sacredly cherished by every true and enlightened American; the House of Representatives was satisfied with the manner in which Mr. ADAMS has performed the duty assigned him, and, desirous of communicating, "through the medium of the press," those principles which have been by him so ably discussed, as well as their sentiments of respect for the distinguished character, and their sentiments of gratitude for the devoted services, of Lafayette, which have been by him on this occasion so faithfully expressed, have come to the following resolution:

Resolved, That —— copies of the oration be printed for the use of the House.

Mr. PEARCE, of Rhode Island, moved to fill the blank in the resolution with 10,000 copies; Mr. PINCKNEY proposed 20,000; Mr. BROWN named 50,000; and Mr. MILLER 40,000.

The question was first put on the largest number, and carried: Yeas 80, nays 61.

Mr. EVANS, of Maine, suggested that the oration ought to be printed on better paper, and with more neatness, than the ordinary documents which were ordered by the House. He therefore moved to amend the resolution by directing that the printing should be executed under the direction of the committee appointed by the House.

The resolution, as amended, was then agreed to.

FUEL FOR THE POOR OF WASHINGTON.

Mr. PINCKNEY asked the unanimous consent of the House to offer a resolution, which he thought would meet with no objection, when it was understood to relate to the distressed situation of the poor of this city.

No objection being made, Mr. P. offered the following resolution; which was agreed to, by a vote of 65 to 60:

Resolved, That the Committee on the District of Columbia be, and they are hereby, authorized and instructed to ascertain the amount of fuel that may be necessary for the immediate relief of the suffering poor of Washington, and to place the same at the disposal of the corporation for that purpose.

INTERNAL IMPROVEMENT.

Mr. CHILTON resumed the speech which he commenced yesterday, on the subject of his resolution; and, without concluding, gave way to a motion for the orders of the day. [Mr. C's speech is given entire in the preceding pages.]

CLAIMS ON MEXICO.

The SPEAKER laid before the House the following messages, &c., from the President of the United States:

To the House of Representatives:

In answer to the resolution of the House of Representatives, passed on the 24th ultimo, I transmit a report from the Secretary of State upon the subject.

ANDREW JACKSON.

DEPARTMENT OF STATE,
WASHINGTON, *Jan. 5*, 1835.

The Secretary of State, to whom was referred a resolution of the House of Representatives of the 24th ultimo, requesting the President "to communicate to that House such information as he may have, and which, in his opinion, may be proper to be communicated, and not incompatible with the public interest, showing the steps which have been taken, and the progress which has been made, in effecting an adjustment and satisfaction of the claims of American citizens upon the Mexican Government," has the honor to report that, in pursuance of instructions from this Department, various representations have been made to the Government of the United Mexican States, from time to time, by the minister of the United States in that Republic; that, owing to the condition of the country, they have hitherto been without success; but that, in the minister's latest despatch, dated the 20th October last, he expresses the opinion that the state of affairs will be such, after the then approaching meeting of the Mexican Congress in January, as will enable him to close, in a satisfactory manner, the negotiations now pending. All which is respectfully submitted.

JOHN FORSYTH.

NORTHEASTERN BOUNDARY.

To the House of Representatives of the United States:

In answer to a resolution of the House of Representatives passed on the 27th ultimo, I transmit a report made to me by the Secretary of State on the subject; and I have to acquaint the House that the negotiation for the settlement of the northeastern boundary being now in progress, it would, in my opinion, be incompatible with the public interests to lay before the House any communications which have been had between the two Governments since the period alluded to in the resolution.

ANDREW JACKSON.

WASHINGTON, *January* 6, 1835.

Report to the President of the United States.

DEPARTMENT OF STATE,
WASHINGTON, *January 5*, 1835.

The Secretary of State, to whom was referred a resolution of the House of Representatives of the 27th ultimo, requesting the President to lay before the House, if in his opinion it is not incompatible with the public interest, any communications which may have been had between the Government of the United States and that of Great Britain, since the rejection by the former of the advisory opinion of the King of the Netherlands, in reference to the establishment and final settlement of the northeastern boundary of the United States heretofore in controversy between the two Governments; and also requesting the President to communicate any information he may possess of the exercise of practical jurisdiction by the authorities of the British province of New Brunswick over the disputed territory within the limits of the State of Maine, according to the true line of boundary as claimed by the United States, and especially upon that part of the territory which has been incorporated by the Government of Maine into the town of Madawaska; together with such representations and correspondence (if any) as have been had by the Executive of that State with the Government of the United States on the subject—has the honor to report that the Department has no information which has not already been laid before the House, of the exercise of practical jurisdiction by the authorities of the British province of New Brunswick over the disputed territory within the limits of the State of Maine, nor any other representation or correspondence had by the Executive of that State with the Government of the United States on that subject. Representations were made to this Department in the latter part of the year 1833, by the British minister at Washington, on the part of the authorities of New Brunswick, complaining of infractions of the understanding subsisting between the two Governments in re-

gard to the disputed territory. These complaints, however, on being referred to the Governors of Maine and Massachusetts for explanation, were believed to be without just grounds. There was no complaint on the part of Maine, and the correspondence which took place on the occasion is not supposed to be within the scope of the resolution of the House.

As the negotiation between the United States and Great Britain, which was commenced in accordance with a resolution of the Senate after the rejection of the advisory opinion of the King of the Netherlands, for the establishment of the northeastern boundary, is now in progress, it is submitted to the President whether it would be compatible with the public interest to lay before the House any communications which have passed between the two Governments on the subject.

All which is respectfully submitted.

JOHN FORSYTH.

PAY OF THE OFFICERS OF THE NAVY.

The House resumed the consideration of the bill regulating and equalizing the pay of the officers of the navy.

The question being on the motion of Mr. ALLEN, of Virginia, to recommit the bill to the Committee on Naval Affairs, to which Mr. MANN had moved to add, "with instructions to report a bill for equalizing the pay of the officers of the army and navy,"

Mr. MANN, of New York, rose and said that, having, before the House adjourned yesterday, moved to amend the motion of the honorable gentleman from Virginia, by adding instructions to the committee to report a bill to equalize the pay of the army and navy, he would now endeavor, briefly as possible, to submit a few considerations in favor of the original motion, as he proposed to amend the same, and against the passage of the bill. We have (said Mr. M.) professed to be an economical, republican, plain people. It has been said that our Government, in its practical operation, conferred a greater degree of benefit and protection upon the people than any other known among civilized nations. Its theory, rejecting all privileged classes, all exclusive legislation in favor of the few at the expense of the many, proceeding upon the principle "that all men are created equal," has commanded alike the admiration of patriotism and philanthropy. Its practice thus far has mainly conformed to its theory. Occasional deviations from the republican track will be found in our history; but he (Mr. M.) trusted these would only form exceptions to general rules and principles, and not rules and principles themselves. If at any time, in our good nature, in our generosity, or, if you please, liberality, we overstep the bounds of prudence, and do violence to that justice which the nation owes equally to the most humble as the most exalted, we ought soon to expect to meet the corrective at the ballot-box. Mr. Speaker, (said Mr. M.,) the present era will form a bright page in our national history, unless, by our own acts, we shall wantonly cast a shade over it, which will grow darker by age, until the remembrance of the present shall become unwelcome to the recollections of men. By the economy and frugality of our republican habits, under an honest administration of our financial affairs, our national debt, (by some maintained to be a national blessing,) which, in 1817, amounted to one hundred and twenty-three millions of dollars, has been paid off, and the anomaly in the history of the oppressions of the human race is now presented of a great nation out of debt, possessing accruing surplus revenues to an extent which may prove dangerous to its purity, and obnoxious to its safety. Are we (said Mr. M.) about to commence a system of extravagant legislation, creating high salaries, sinecures, perquisites, allowances, douceurs, and privileges, which will lay the foundation of a new national debt, to prove more cruel and enduring than has ever yet excited the fears of our people? There are those, sir, (said Mr. M.,) in the atmosphere surrounding this Capitol, who will answer, "Never fear; the laborer is worthy of his hire, and his hire is not enough to supply his necessary wants, and his necessary luxuries and entertainments; his respectability must be supported or the nation is disgraced." Put the question (said Mr. M.) to our constituents; I do not mean the wealthy and luxurious of our large cities and towns; but the great planting and farming interests of the country; and, if I have not grossly mistaken their opinions, their answer will be, "True, the laborer is worthy of his hire, and let that hire be reasonable, even liberal;" but they will be careful to add a warning against extravagance. This bill, sir, (said Mr. M.,) may be considered as a pioneer to a system which the peculiar situation of our financial affairs, the generous and better feelings of our nature towards our gallant officers, invites and allures us—a system of prodigal expenditures of the public revenues, for the benefit of our favorites, to silence their clamors, and pamper their appetites, wholly inconsistent with a just sense of our duties to the country, the purity of its laws and administration, and destructive to its welfare. We have been reminded of our overflowing treasury, and that Republics are ungrateful; we hear spoken of, in eloquent accents, our national greatness, our bravery, our liberality, our justice, our honor, our debt of gratitude to those who protect and defend us from "perils by sea and by land;" but, sir, (said Mr. M.,) pardon me for the apprehension that this is the "siren" to our vanity, which lulls to security, and "deceives but to destroy."

I trust, sir, (said Mr. M.,) that the lessons gathered from the history of European oppressions have not all been yet lost to the people, and that there is yet a spirit which may be awakened to a sense of danger—which will shield us from the evils that have been inflicted upon those nations, by the adoption of systems of bounties, pensions, and sinecures, which have turned all the property of those kingdoms out of the hands of honest industry into the laps of luxurious idleness and vice.

Mr. Speaker, when this bill was under consideration before the Committee of the Whole, I had occasion to say that it was a little remarkable that a proposition to equalize the pay of the army and navy should so readily have resolved itself into an effort simply to increase the pay of the navy; and I desired (said Mr. M.) to be informed by what process and for what reasons the original object had been abandoned by the committee, and their efforts directed only to increase the pay of the navy. The chairman of the committee [Mr. WATMOUGH] has contented himself by answering that it was found impracticable to undertake to reduce the pay of the army, without endangering the success of the principal object, of raising the pay of the navy. Is it true, sir, (said Mr. M.,) that the army and navy have already gained so much influence over our legislative councils that it is impracticable to restrain their control? The very proposition is sufficiently alarming, but the admission of it upon this floor is astonishing. Does the gentleman mean to admit that it is impracticable to reduce the pay and emoluments of the swarms of officers of the army, because they are unwilling to be reduced; and that, therefore, we must abandon that branch of the subject, and comply with the demands of the officers of the navy, by raising their emoluments up to the standard of the army?

[Mr. WATMOUGH explained, and said he had made no such admissions or declarations, that he was aware of, as the gentleman had supposed. He must have been misunderstood.]

Mr. MANN continued. He was confident the hon-

orable gentleman had made such remarks in answer to his (Mr. M's) inquiry, although perhaps the gentleman had forgotten himself, in the zeal with which he pressed this bill. Why, sir, said Mr. M., the course of proceedings of this committee seems to me to amount to such an admission; otherwise for what reason, I ask again, did the committee abandon their original object of equalizing the pay of the officers of the army and navy? I am aware, sir, (said Mr. M.,) that the six hundred and three officers of the army are a more numerous if not a more dangerous body than Congress. They command six thousand five hundred and ninety-five men, that is, an average of one officer for about ten men; from which it might be inferred that the men are under sufficient discipline for a peace establishment. Mr. M. hoped that the honorable gentleman had not taken counsel from his fears of this array, in arriving at his conclusion that it was impracticable to legislate as to the pay and emoluments of this branch of the public service. Will it be denied, sir, (said Mr. M.,) that some remedial legislation, in regard to the emoluments of the officers of the army, would be beneficial to our finances, if not to the "*morale*" of the army itself? Let us look into this "ingratitude of Republics." The honorable gentleman from Virginia, [Mr. ALLEN,] who addressed the House yesterday on this subject, was mistaken in what he said in respect to the pay of the officers of the army. He might easily be mistaken, sir, (said Mr. M.,) because, in looking into the documents generally on this subject, although you have a bureau here for every division and subdivision of duty, there is confusion and uncertainty, I will not say a fraudulent suppression, in regard to the allowances and emoluments of the officers of the army. Sir, (said Mr. M.,) the Blue Book, compiled every two years, pursuant to a law of Congress, under the direction of the Secretary of State, is required by law to "exhibit the amount of compensation, pay, and emoluments, allowed to each officer or agent." Now, sir, in regard to the pay of the army, this document only shows the pay and allowances to your major general $200 per month and fifteen rations per day; brigadier general $104 per month and twelve rations; and thus through the different grades. Sir, (said Mr. M.) we shall soon learn that this celebrated Blue Book does not tell half the truth. I do not know whose fault it may be, but, sir, in respect to the army, this book is not entitled to the least credit. In document marked B, accompanying the report of this bill, the pay and emoluments of a major general are stated to be $6,512 64, a brigadier general $4,422 48. In another document, sir, (said Mr. M.) accompanying the same report, called statement A, under the joint signatures of the Secretaries of the War and Navy Departments, I find the following statement, which I beg leave to read for the information of the House. Mr. M. read:

"The following table exhibits the maximum amount of pay and stated allowances which the respective grades of the army can receive, and the average amount actually received during the year 1832."

Grades.	Actually received in 1832.	Maximum amount.
Major general,	$6,528 80	$6,634 00
Brigadier general,	4,265 20	4,515 00
Colonel,	2,678 65	3,014 00
Lieutenant colonel,	2,329 80	2,497 50
Major,	2,099 40	2,231 50
Captain,	1,442 91	1,569 00
First lieutenant,	1,103 52	1,443 00
Second lieutenant,	1,027 40	1,383 00
Brevet second lieutenants,	1,027 40	1,383 00
Cadets,	338 00	338 00

Sir, this statement does not agree with the statement first mentioned, in any one item; yet it must be taken and deemed as authentic as any other as far as it goes. It does not profess to show all the allowances made to the officers of the army. Under most circumstances, these officers are entitled, extra, to double rations, fuel, quarters, stationary, transportation, or travelling allowance, besides a special extra average per diem allowance of two dollars on courts martial or special duties. I cannot learn, sir, (said Mr. M.,) from any documents within my reach, what all this paraphernalia of allowances costs the country, or what is its value to the officers; and it is doubtful whether, at this time, any Department of the Government can inform you what is the exact value and amount of the pay and allowances per annum to the general and staff officers of the army. The practice of brevets, which has obtained extensively, seems better adapted to the increase of pay than to any other object of the service. For instance, a brevet brigadier general, stationed at Washington, performing the duty of the head of the bureau of the engineer corps, may obtain a salary, under a law giving him $104 per month and twelve rations per day, of $4,515. I do not take this example from any hostility to the respectable gentleman who has been so fortunate as to secure such snug quarters. I believe he is a good engineer; but his engineering is perhaps on a scale more expensive to the country than the scale of his salary.

These details (said Mr. M.) furnish a single example of how much abuse may be practised, under the guise of the public service, if not the public good. They show on the face of them the necessity of legislative correction; and if the committee had adhered to their original purpose, I should have entertained some hope of seeing our army of officers placed on a footing more just to the true interests of the country and the other branches of the public service. Unfortunately, they have not done so; and therefore I am for the motion of the honorable gentleman from Virginia to commit this bill with instructions "to report a bill to equalize the pay of the army and navy," and I would add a provision to cut off all allowances.

Mr. Speaker, (said Mr. M.,) I come now to the examination of the dry details of this bill, and I must ask the indulgence of the House while I submit a few considerations against its passage. I will attempt to show that its provisions will increase the pay and emoluments of the navy, except in the highest grades, much beyond the maximum which the Secretary, or the navy board, or even its officers themselves, have as yet asked or desired. I will attempt to go further, sir, (said Mr. M.,) and show by comparisons that the present pay and allowances to the American navy, except in the highest grades are now, under our laws and regulations, greater than those of any other considerable navy in Europe. Some of the general provisions of this bill, sir, will also (said Mr. M.) claim our attention. The first thing (said Mr. M.) which presents itself to our attention is usually an unimportant part of a bill, its title, "A bill to regulate the pay of the navy of the United States." I have (said Mr. M.) been brought up in the old school, where I learned to call things by their right names. Perhaps I am behind the intelligence and ingenuity of the age, but I should call this, in plain English, "a bill to increase the pay of the navy." When the honorable gentleman adopted his title, he must have been influenced by the doctrine that "a rose by any other name would smell as sweet." But why not call it by its true name? Is it to be implied that its friends entertain some fears that it has rhubarb in its composition? Sir, (said Mr. M.,) whatever you call it, the bill will still be a bill to increase the pay of the navy, instead of what it should have been "a bill to equalize the pay of the army and navy." The

first item in it seeks to establish a distinction between officers of the same grade, by designating "a senior captain," or a concealed admiral, a "commander in chief" of the navy. I confess myself a little jealous of "titles and dignities" under this Government. Perhaps, (said Mr. M.,) it is owing to a defect of education in the school to which I have always been attached. Why, (said Mr. M.,) do we propose to do things for the navy under false colors? That branch of the service has never given us such an example. Their banners have always been boldly hung out, inscribed with liberty and truth. To this "senior captain" we propose by this bill to give, when in service, a salary, besides some allowances, of $4,500. "When on leave of absence or waiting orders, $3,500." In respect to "all other captains," the provisions of the bill are similar, except in some contingencies not likely to occur. The ten captains of the navy, of over fifteen years' standing, "when at sea," and when at shore stations, and as navy commissioners, now receive an average salary of $3,493 72, besides some other valuable allowances. Is not this enough to satisfy all reasonable demands upon the gratitude of Republics? We are answered in the negative, (said Mr. M.;) and, to show us simple republicans how far we are behind those great and oppressive aristocracies, we are referred to the precedents of the British and French navies, communicated to us (to my surprise) by the Secretary of the Navy, not, I am confident, for our imitation or adoption. In those navies an admiral "senior officer" receives from $7,500 to $9,500, which is increased nearly fifty per cent. when they are on duty; or, in other words, the princely treasures of those kingdoms, "gathered from the mouths of famine," are opened to the rapacity of those who hold to the maxim of "taking care of the rich, and the rich will take care of the poor." These precedents, (said Mr. M.,) cannot have been placed upon our records as examples for our adoption, at the instance of any American citizen; and, for myself, I cannot permit them to influence my judgment or action, in respect to any provision of this bill. To me they are bad precedents; and the circumstance of their being before us has, in no degree, disposed me in favor of the bill which accompanied them. It will be legitimate, however, for me to refer to them again, for another purpose. Sir, (said Mr. M.,) we are told that the pay of the officers of the navy was established by a law passed in 1799, since which it has not been increased, while the pay in other departments of the public service has been enlarged; and this is urged as a reason why we ought now to show our liberality with the public treasures, and increase the pay of the navy. I am aware, sir, (said Mr. M.,) that our public servants immediately about the Capitol, are much in the habit of applying to the legislative power to give, give! And that, in the better sympathies of our nature, we are too apt to yield to such importunities, forgetting the interests of those multitudes of our fellow-citizens, far removed from the scene of our action, but whose interests deserve the most of our care. It should not be forgotten (said Mr. M.) that, in 1799, an administration existed (under the elder Adams) in this country, which, whatever other objections arose against it, was not guilty of being in favor of low salaries. The pay of the captains of the navy was raised at that critical period in our history and in our finances, from $75 to $100 per month; and it is under that law now by which these captains, through allowances and perquisites, obtain the average before stated of $3,493 per annum; except that in 1815 Congress passed a law to organize the navy board, and established their pay at $3,500, besides some contingencies. Mr. Speaker, (said Mr. M.,) I do not perceive the force of the reasoning, that, because you have raised the pay in one branch of the service, therefore you must raise another, or the whole. If admitted, it would lead to raising the pay under this Government (already in my judgment too high in every department) to a degree which would exalt the agent above the principal. The officers of the navy, sir, (said Mr. M.,) in addition to pay and emoluments, in time of war, are entitled to prize money, which is usually the lion's part. This item during the late war amounted to $1,140,594, divided, according to our prize laws, between the gallant officers and crews of the vessels so fortunate in capturing the enemy. When we reflect, again, that these officers are not called into foreign sea service more than about one year in five, I am confident the country will be satisfied that there is no necessity of passing this bill, so far at least as the thirty-seven captains of the navy are concerned.

Mr. Speaker, the next item of this proposition "to regulate" raises the pay of the masters commandant, or, in the more dignified language of the title to this item, "commanders," (leaving the appellative chief off for the present.) They are to receive $2,500 on sea service, on other duty $2,000; waiting orders, (that is, engaged to do nothing,) $1,800. There are at present forty-one of these officers in the service. They are mostly its active and efficient officers. Their rank has not been above actual service; and I am frank to admit that some of them have not heretofore obtained as much pay as their services may have merited, when compared with other grades in the navy. There seems to be an extraordinary discrepancy in their pay and allowances at present, which I cannot well account for. For instance, those nine who are in actual sea service receive $1,356 25 each, while the nine commanding navy yards, receiving or recruiting stations, obtain $2,010 75 each. On the whole, sir, if their pay and emoluments were properly distributed, it would seem to me that better justice would be done, and this class of officers more equally rewarded, if not better satisfied.

Sir, (said Mr. M.,) I could go through the details of this bill, in every grade of the service, increasing the pay as it does, in every instance, to a degree not heretofore contemplated by even the officers themselves. The committee who reported it has made two reports on the subject, each differing in principle from the other, and brought in three different bills for the same object, each varying widely from its immediate predecessor, and then the chairman, before the Committee of the Whole, accepts, virtually, a new bill, differing essentially from all the other propositions, and this is amended until you find it a deformity upon your table. After this exhibition, what confidence, sir, ought the House to repose in the doings of the committee? Why, sir, the honorable gentleman ought to suspect his own judgment, and distrust himself for having lent his ears too willingly to those whose interests had got the better of their judgments. He has informed us that he diligently sought the most extensive information on the subject; but, sir, (said Mr. M.,) although I will not question the gentleman's diligence, yet I am compelled to doubt his success in the pursuit, and oppose the use he proposes to make of his attainments. There are, however, several documents appended to his reports, from which I have compiled three brief statements, to prove to you the two propositions that this bill will increase the pay of the navy far beyond the maximum which the Secretary and the navy board, acting in behalf of the interest committed to their direction, have asked or desired; and, secondly, that the present pay of the navy is, in all the grades except the higher, greater than any other considerable navy in Europe. For this last purpose I have used part of the precedents furnished to us, of the pay in the British and French navies. Let me remark, further, that the document furnished by the joint deliberations of the Secretaries of War and the Navy, was drawn up in obedience to

a resolution of the Senate of 3d March, 1833, requesting the President to "cause to be prepared and laid before the Senate, at the commencement of its session, a plan for equalizing the pay of the officers of the army and navy, and providing for a fixed compensation for their services, in lieu of present allowances." After the Secretaries had prepared this document or plan, they submitted it to the navy board for their consideration, and they proposed some modifications, by increasing some grades and diminishing others, in a slight and unimportant degree. Thus, sir, this plan of increase in the pay of the navy has the sanction of the two Secretaries, the navy board, as the official representatives of the navy, and of the President of the United States. It is, therefore, entitled to at least as much consideration as the opinion of the honorable gentleman, who has given us his three different opinions in the shape of bills.

Mr. Speaker, I have taken pains to compare the provisions of this bill with the pay thus proposed under the official sanction of the high officers charged with this duty, and the pay provided by the bill exceeds that proposed in the plan, in every single instance except one or two of the highest grades. The brief statements which I present as examples exhibit the present pay of the navy as far as the same appears in the documents, the pay proposed by the Secretaries and navy board, the increased pay provided in this bill, and the comparative pay in the British and French navies.

[Here Mr. M. read many of the details in the documents, and compared them with the provisions of the bill.]

Grades.	Present average pay.	Pay proposed by Sec. Navy and navy board.	Pay provided in the bill.
1. Senior captain at sea, -	3,493 72	5,500	4,500
Ditto on leave of absence, &c.	1,940 00	3,000	3,500
2. Other captains commanding squadrons, or acting as navy commissioners, -	3,500 00	4,200	4,500
3. Other captains commanding at sea and navy yards, -	3,466 00	3,500	4,000
On leave or waiting orders, -	1,940 00	2,300	3,000
4. Masters commandant at sea,	1,356 25	2,000	2,500
Ditto on other duty, - -	2,010 56	1,600	2,000
Ditto on leave or waiting orders, - - -	1,176 25	1,400	1,800
5. Lieutenants in command, -	1,296 25	1,500	1,800
On other duty, - -	1,292 95	1,000	1,500
On leave or waiting orders, -	965 00	800	1,200
6. Midshipmen at sea, -	319 25	350	400
7. Chaplains at sea, - -	662 50	1,000	1,200
8. Schoolmaster, - -	-	600	1,200

French Navy—Pay of Flag Officers.

Admiral, - - - - -	$7,500 00
Vice admiral, - - - -	2,862 00
Rear admiral, - - - -	1,875 00
Captain ship of the line, 1st class, - -	1,125 00
Captain ship of the line, 2d class, - -	1,012 00
Captain frigate, - - - -	787 50

Allowances.—These vary at yards and at sea, amounting, in some cases, to as much as the pay of these classes of officers.

Lieutenant of a ship of the line, - -	$450 00
Lieutenant of a frigate, - - -	337 50
Surgeon of the 11th class, - - -	562 00
Midshipmen, 1st class - - -	150 00

Allowances to the under officers much less than in American navy.

Note.—The pay of the superior grades is increased nearly 50 per cent. when at sea.

British Navy.

Rear admiral, or commodore of the 1st class,	$4,861 80
Captain of a fleet, - - - -	4,861 80
Captain, 1st rate, - - - -	3,542 08
Commander, 1st rate, - - -	3,542 08
First lieutenant, seven years' standing, 1st rate, - - - - -	663 78
All other lieutenants, - - -	531 02
Master, - - - - -	752 38
Chaplain, - - - - -	708 03
Surgeons, - - - - -	1,134 00
Assistant surgeons, - - - -	531 02
Midshipmen, - - - -	138 52

Note.—Other grades conform to these rates, and this is the pay in first rate vessels, which is generally diminished through all the other six classes of vessels belonging to the British navy.

[After Mr. M. had referred to the details of the pay in the British and French navies, and was proceeding to show that, in all the grades below admiral, it was far lower than the present pay in the American navy,

Mr. WATMOUGH explained, and said those precedents were incorrect, and that the gentleman was mistaken, because that pay was increased when in service 50 per cent., and that those officers obtained large allowances besides.]

Mr. M. continued, and said that he was aware that the higher grades in the French service, when at sea, had such increase, but none of the lower grades. The honorable gentleman (said Mr. M.) has told us nothing new. Suppose I was mistaken 50 per cent., it will be easy to add that to the pay of those navies, and then you will not equal the pay of the lower grades in our navy. The honorable gentleman appends documents to his reports, for our consideration, and then says they are incorrect and cannot be relied on. Sir, (said Mr. M.,) I should wish to know whether any of these documents are to be relied on; or whether the gentleman will also stultify the residue. If these documents (said Mr. M.) are in any degree worthy of credit, then have I proved to you the two propositions which I have before made; and now, sir, let me ask this House if it is prudent for us, in the discreet discharge of our duties, to pass this bill thus increasing the pay to a greater extent than has been proposed by those officers who have had the subject under their careful revision? I might here pause, and ask whether the present pay of the navy is not now sufficiently large? Shall we outstrip in our career the vices and oppressions of European aristocracies? But, Mr. Speaker, I have not yet spoken of the allowances now made to our officers, which will be found to exceed those in Europe. I have a little book, compiled in 1832 by that most indefatigable and valuable officer the Secretary of the Treasury, while he was at the head of the Navy Department, which contains many things on this subject, not known generally to the public. The honorable chairman has not thought it advisable to make this book a part of the documents to his report. I will beg leave to read a few paragraphs:

"Allowance on bills drawn by commander of ships or squadrons. This was two and a half per cent., but ceased after the 10th November, 1826." I am informed that it is now established at one per cent., but I will not vouch for the truth of this. If it be true, sir, the allowance of one per cent. on the expenses of a three years' cruise

will sustain the dignity of the captain sufficiently for a Republic.

"Allowance for cabin furniture. Commanders of vessels in commission will be allowed as follows, in lieu of cabin furniture:

"Commodore of a squadron $30 per month; captain of line of battle ship $25 per month; captain of a frigate $20 per month; master commandant in command $15 per month; lieutenant commanding $10 per month."

"The following articles are deemed fixtures, and will be provided by the Government, viz: sofas, sideboards, secretaries, book cases, curtains, carpets, wash stands, basins, covers, and hanging lamp for the cabin."

"Allowance for chamber money. Two dollars per week to officers stationed where there are no quarters.

"Allowance for detention on special duty, $10 per day to judge advocates who do not belong to the navy; $3 per day to captains and masters commandant; $2 per day to surgeons, lieutenants, and citizens generally; $1 50 per day to all others.

"The following articles of furniture are allowed by the Navy Department: commandants' houses (giving items) $666, and oil cloths for passage and parlor, not to exceed $2 per yard; master commandants' houses (giving items) $319, besides like oil cloths; houses of lieutenants, sailing masters, surgeons, and pursers at yards (giving items) $178, besides like carpets." These, sir, are not yet all the allowances made, but I fear I go too far into detail. I will mention fuel, candles, and stationary, travel or transportation, (including constructive journeys,) which amount to an annual sum to each officer, greater than the people, or, perhaps, the Government are now aware of. Mr. Speaker, (said Mr. M.,) looking at all this array of salaries, allowances in kind, or in money, I am constrained to call it "an abuse," for I will not use a harsher term. It needs no comment, and I forbear. Let us turn our attention, for a few moments, to some of the general provisions of this bill, which appear to me objectionable. By one of these provisions, surgeons, ordered as fleet surgeons, are to have their pay increased one-half, and, "when appointed to perform the duties of surgeon general, his pay shall be increased three-fourths." Now, sir, said (Mr. M.,) I should like to be informed why it is that we undertake to do things for the navy indirectly, which we do not likely to do directly and openly? Is it necessary that there should be concealment in any of our objects? Why not, said (Mr. M.,) provide openly, under large capitals, that there shall be appointed a new officer in the navy, (as you have in the army,) to be called a surgeon general, with a salary and allowances of $3,000? If such an officer is necessary to the service, let it be understood, and the reason shown for it; and is there any doubt that it would be favorably considered, if those reasons were sufficient? If you pass this bill, said (Mr. M.,) you will have such an officer added to the long list now in commission, and he will have a salary of $3,000.

Again, Mr. Speaker, are we about to lay the foundation of a naval school in the establishment of this "professor of mathematics?" If so, let it be avowed, and let us understand openly and distinctly the purpose. The honorable gentleman [Mr. WATMOUGH] has reported in favor of such an establishment. I perceive by that report, that we have now some schoolmasters attached to the service. At Boston there is one teacher stationed upon a salary of $981 75, besides allowances; and he must be a gentleman of considerable importance, not addicted to labor in his vocation, for he has (do not be surprised) six pupils! At New York there are "two professors," and one has $981 75, and the other $662 50, with allowances; and they both have fifteen pupils! At Norfolk, "one professor," and thirty-one pupils. These, sir, must be rare foundations for naval schools! But I will not now discuss whether we ought to teach our young men how to live at the public expense; yet, sir, this "professorship of mathematics" in the navy may prove a germe on which we may ingraft an establishment to educate favorites, in exclusion to the community generally, under the disguise of preparing them for the public service, which will correspond with that at West Point, under the surveillance of the officers of the army. Before we adopt this "professor," I should like to be informed how many assistant professors will be necessary to enable him to perform his duty. I perceive that the "professor of mathematics" at West Point has four "assistant professors;" and if the naval professors should require a like number, we might as well perhaps establish a corps of professors under the command of a bureau, with a salary of at least $4,515! This naval "professor," I am given to understand, has heretofore had a calling, copied from the English, a "schoolmaster;" but we are told that this appellation does not now correspond with his "dignity," he being an officer of "the Government of the United States," and jealous of his rank and title. Now, sir, (said Mr. M.,) I have yet to learn that the calling or occupation of a "schoolmaster" is either derogatory or degrading. If it be so, then, sir, I am obliged to confess that I have borne this degradation in common with many other gentlemen on this floor. If, sir, we shall leave this "professor" with his humble calling of a "schoolmaster," without "gown and wig," I am inclined to believe he will render you as much and as good service as he will if you confer high-sounding titles, which imply that he performs his duties by deputy.

There is another provision (said Mr. M.) which should not escape notice. It contains the principles and has the modern objects of "brevet rank," which has obtained in the army. It provides that officers performing duties of a higher grade shall be entitled to the pay and emoluments of such grade. If the House are prepared to sanction the principle and practice of "brevets" in the organization of the navy, it is probable we shall hear less complaint as to the difficulties and delays of promotion. Officers who have heretofore been contented in the performance of the duties assigned to their grade, will soon, like many of your officers of the army, have two or three "brevets," and in the end the coxswain may "pace the deck and play the Commodore." No provision could well be devised which would prove more mischievous to the discipline of the navy, or destructive to its best interests. Again, sir, I had occasion to remark the other day that the second section, providing to set apart three per cent. of the pay of the officers, to "constitute a fund for the relief of the widows and children of those officers," was virtually an annual appropriation out the treasury to grant annuities or pensions to those persons who have not heretofore come within the pension policy of this country. The honorable gentleman from Virginia [Mr. MASON] said, in reply, that I was mistaken in supposing it to be an appropriation out of the treasury; it was out of the pay of the officers, and he undertook to establish his position. Why, Mr. Speaker, who can fail to perceive that, if you establish a rate of pay for your officers from which you deduct annually three per cent., you must make that pay three per cent. higher than you would otherwise deem necessary. But sir, (said Mr. M.,) I cannot add to what was said on this point, and so well said, yesterday, by the honorable gentleman [Mr. ALLEN] from Virginia. Mr. Speaker, my two honorable colleagues, [WARD and VANDERPOEL,] for whom I entertain feelings of habitual respect, have delivered to us some warm-hearted eulogiums upon the character and services of our navy and its officers. In all they have said in that respect I most fully and sincerely concur; but, perhaps unfortunately,

I have been obliged to consider the question before us as one of entirely different character, wholly disconnected with those brilliant achievements which have won so much favor and commanded so much eloquent admiration. Sir, (said Mr. M.,) there are at present 1,007 officers attached to the navy. Their present aggregate pay is $738,425 25. If you pass this bill, sir, their aggregate pay will be $973,593 34, making an increase of $235,168 09. This statement may not be entirely accurate, although it is derived from the most correct official sources. The pay of those officers, sir, at present, is a sum sufficient to support the civil administration of any three of the largest State Governments in this Union, and the increased pay provided in this bill is a sufficient sum to support the Government of either one of them. We are then to decide, sir, not whether the navy has acquired glory in deadly conflict, but whether we will enlarge the permanent expenditures of this Government (already complained of in every quarter of the Union) by so large a sum annually, to be gathered from the fruits of honest labor, in order to increase the salaries of the officers; not so much for those who were connected with the glories of which my colleagues speak, (for many of them have long since made their beds in the "vasty deep,") but those who are to succeed, and who are now pressing from every quarter of the country to gain admission into the service. My friends alluded to the pay of the higher grades in the British and French navies, and I fear those precedents, in the unguarded moments of their warm-hearted zeal towards the brave may for once have caused them to forget the interest of those whose utmost toil in the heat and burden of the day secures for them but a limited protection against the chills of the winters of their lives.

Finally, Mr. Speaker, (continued Mr. M.,) we need have little apprehension that those who work for the United States will work for nothing; neither need we have our repose disturbed for fear they will not get enough. Let us remember that this Government derives all its revenues, as well as all its powers, from the people; that it cannot act at all except by agents whose self-interest (an all-pervading spring of human action) is always against the principle, quickened by cupidity, and sharpened by avarice; and for one I conclude there is no danger on their side of the question. Sir, (said Mr. M.,) let me add that I have always been friendly to the navy—I have appreciated its utility, equally with its gallantry. I would provide liberally to sustain its real and true interests, its dignity and reputation abroad, by suitable and general laws. But do not, sir, I beseech you, charge the country with so large a permanent expenditure to raise our salaries, and increase our luxuries, lest, through consequent effeminacy, we too soon realize the evils which Spain found in the mines of the new world.

When Mr. MANN had finished his speech,

Mr. POPE said that he had heretofore abstained from any interference in the progress of the bill before the House. He had, however, listened attentively to the various propositions of gentlemen, and the remarks which had been made on the subject. He was satisfied that the present compensation of those engaged in the naval service was too low. He was not to be deterred, by any thing which might be urged, from doing entire justice to and paying adequately those individuals who encountered the perils of the ocean, in sustaining and defending the flag and the honor of the nation. He believed that the bill was not altogether just in its details; but he would prefer taking it with its imperfections, than that no act on the subject should be passed. He would rather give too much than too little to those engaged in the naval service of the country. While he entertained these views, he was apprehensive that the bill, in its present shape, would not receive the assent of the House; and he appealed to the gentleman from Virginia, [Mr. ALLEN,] to withdraw his motion to commit, for the purpose of giving him (Mr. P.) an opportunity to submit a proposition which he indicated, to amend the bill, and which he considered necessary to ensure its passage.

Mr. WISE hoped his colleague would withdraw his motion to commit the bill, and enable its friends to remedy its defects, if any should be found to exist.

Mr. ALLEN, of Virginia, said that, inasmuch as his motion had been superseded, or varied by the instructions which had been proposed by the gentleman from New York, [Mr. MANN,] he had no objections to withdraw it.

The motion being withdrawn, Mr. POPE proposed to amend the bill by striking from the following clause the words printed in italics:

"To captains, when commanding squadrons on coast stations, *and when acting as navy commissioners*, four thousand *five hundred* dollars."

Mr. PARKER suggested that the words "*coast stations*" be also stricken out.

Mr. POPE assented to the suggestion, as a modification of his motion.

Mr. POPE further moved to amend the bill by striking out $3,700 as the compensation to captains "when on other duty" than specially stated, and inserting $3,000.

Also, to strike from the bill all that part relating to extra allowances, and to raising a fund by deducting three per cent. from the pay of the commission and warrant officers, for the relief of the relations, &c., of deceased officers.

Mr. WATMOUGH was anxious that this bill, which had occupied so much of the time of the House, should be disposed of. If gentlemen would be satisfied with the amendments proposed by the gentleman from Kentucky, he would not oppose them, and was willing that they should be adopted.

Mr. JARVIS remarked that the portions of the bill which it was proposed to change, having been amended in Committee of the Whole, and the House having concurred in the amendments thus proposed by the committee, he did not think that the House could now, without a commitment, entertain the proposition of the gentleman from Kentucky.

After some conversation between Mr. MASON, of Virginia, and the CHAIR, (temporarily filled by Mr. HUBBARD,) on the point of order raised by Mr. JARVIS,

Mr. JONES, of Georgia, moved to commit the bill to a Committee of the Whole on the state of the Union, with instructions to strike out all after the enacting clause, and insert in lieu thereof several sections, (which he sent to the Clerk's table,) proposing to establish the ranks of admiral, vice admiral, and rear admiral, in the naval service, and fixing various grades of compensation to the individuals employed in the same.

Mr. JONES moved that this amendment be printed.

Mr. GILLET hoped that the gentleman would include in his motion to print the bill before the House, together with all amendments which had been adopted. It was almost impossible to ascertain the precise shape which it had assumed.

Mr. JONES accepted the modification. The motion to print being put, there appeared: Yeas, 66, nays, 63. A quorum not voting,

The House adjourned.

WEDNESDAY, JANUARY 7.

THE JUDICIARY.

Mr. HAMER offered the following resolution:

Resolved, That the Committee on the Judiciary be in-

structed to inquire into the expediency of amending the constitution of the United States so as to limit the service of the judges of the Supreme and inferior courts to a term of years.

Mr. EVANS demanded the question of consideration.

Messrs. MARDIS and HUBBARD asked simultaneously for the yeas and nays on this question, and they were ordered.

Mr. WILLIAMS moved a call of the House, which was refused.

The question being put, "Will the House consider the resolution?" It was determined in the negative: Yeas 84, nays 90, as follows:

YEAS--Messrs. John J. Allen, William Allen, Bean, Beaty, Bockee, Boon, Brown, Bull, Burns, Bynum, Cambreleng, Campbell, Carmichael, Carr, Casey, Chaney, Chilton, Samuel Clark, Clay, Clayton, Clowney, Cramer, Day, Dickerson, Dunlap, Ferris, Forester, Foster, Galbraith, Gamble, Gillet, Joseph Hall, Thomas H. Hall, Halsey, Hamer, Hardin, Joseph M. Harper, James Harper, Harrison, Hathaway, Henderson, Howell, Hubbard, Huntington, Inge, Jarvis, Noadiah Johnson, Seaborn Jones, Kilgore, Kinnard, Lane, Lansing, Luke Lea, Lewis, Love, Lyon, Joel K. Mann, Mardis, Moses Mason, May, McCarty, McIntire, McKay, McKim, McLene, Miller, Robert Mitchell, Morgan, Muhlenberg, Osgood, Pierson, Plummer, Polk, Reynolds, Robertson, Shinn, Smith, Standefer, Turner, Turrill, Vanderpoel, Van Houten, Wardwell, Whallon—84.

NAYS—Messrs John Quincy Adams, Chilton Allan, Anthony, Archer, Ashley, Banks, Barber, Barnitz, Bates, Baylies, Briggs, Burges, Cage, Chambers, Chinn, Claiborne, William Clark, Coffee, Corwin, Coulter, Crane, Crockett, Darlington, Davis, Davenport, Deberry, Denny, Dickson, Evans, E. Everett, Ewing, Fillmore, Philo C. Fuller, Fulton, Garland, Gilmer, Gordon, Graham, Grennell, Hard, Hazeltine, Heath, Hiester, W. Jackson, Janes, William Cost Johnson, Henry Johnson, Laporte, Lay, Letcher, Lincoln, Loyall, Manning, Martindale, Marshall, John Y. Mason, McComas, McKennan, Miner, Murphy, Patton, Phillips, Pickens, Pinckney, Pope, Potts, Ramsay, Reed, Schenck, Schley, Augustine H. Shepperd, Slade, Sloane, Spangler, Steele, William Taylor, Philemon Thomas, Tompkins, Trumbull, Tweedy, Vance, Vinton, Watmough, White, F. Whittlesey, Wilde, Williams, Wilson, Wise, Young--90.

INTERNAL IMPROVEMENT.

The House resumed the consideration of the resolution submitted by Mr. CHILTON. Mr. C. continued his remarks, as given heretofore; but, without concluding, gave way for the orders of the day.

PAY OF NAVAL OFFICERS.

The House then proceeded to the consideration of the unfinished special order, being the bill to regulate the pay of the officers of the navy of the United States.

The question being on the motion of Mr. JONES, of Georgia, to recommit the bill to a Committee of the Whole on the state of the Union, with instructions to strike out all after the enacting clause, and insert in lieu thereof, "a bill providing for the establishment of the ranks of admiral, vice admiral, and rear admiral," and fixing various grades of compensation to the individuals employed in the service.

Mr. JONES, of Georgia, rose and stated that, having had a conversation with the gentleman from Kentucky, [Mr. POPE,] he did not feel disposed to press the consideration of his motion until that gentleman should have an opportunity to present his amendment. He, however, must be understood to retain the opinion that the well-being of the naval service required the establishment of the higher ranks indicated in his own proposition. He was well aware that this was unpopular in the House; but when he connected with his own impressions the remarks and arguments of gentlemen on that floor, in relation to the support of the dignity of the officer and of the country abroad, he was still more convinced of the propriety of adding these higher ranks to those already existing in the navy. They were calculated not only to obviate the difficulties alluded to, but, also, to place before the officer another object of ambition—another inducement for alacrity in the performance of his duties. Not that they had ever failed in such performance; far from it—their merits were well known to him—but as another reward for their faithful services, which they have not now in prospect. He then withdrew his proposition for the present, for the purpose of giving precedence to the introduction of the motion of the gentleman from Kentucky, [Mr. POPE,] whose amendment was then read and adopted by Mr. J. as a modification of his motion.

Mr. WISE said he was not disposed to offer any special objections to this course; but he feared, though he did not entertain that belief himself, that it would be construed by many into an act of hostility to the bill.

Mr. POPE disclaimed all such hostility.

Mr. GILLET said he had understood the true question before the House, on the adjournment of last evening, to be on the printing of the bill and amendment.

The CHAIR explained. That motion had been withdrawn.

Mr. GILLET then moved the postponement of the consideration of the bill till to-morrow, with the view to have it printed; for he protested he could not himself understand the situation in which it stood, and he believed a great number of members were in the same condition.

Mr. WATMOUGH said the bill was essentially the same, with the amendments, as that already printed. He deprecated delay. The friends of the bill had shown a disposition to make every possible sacrifice contistent with their deep sense of right for the purpose of facilitating its passage.

Mr. JONES, of Georgia, expressed a hope that the gentleman from New York [Mr. GILLET] would waive his motion to print, in order to go into a Committee of the Whole, and get the bill in a condition to be engrossed. It would then be time enough to have it printed for further examination and amendment.

Mr. GILLET said the difficulty could not thus be avoided. A disagreement existed between the chairman of the select committee [Mr. WATMOUGH] and himself, as to the construction of some of the provisions already passed upon, particularly in relation to allowances to commanding officers at sea and on shore. He said he also had amendments to propose as well as the gentleman from Kentucky, [Mr. POPE;] and, in the present confused state of the bill, he was not sure that he could properly designate where they should come in, or what should be their exact purport.

Mr. WATMOUGH said the amendment of the amendment of the gentleman who last addressed the Chair went to strike out all allowances, so he could see no difficulty in the way of the gentleman which could require the delay incident to printing.

The question was then taken on the motion of Mr. GILLET, and rejected.

Mr. REED, of Massachusetts, said some gentlemen were desirous to reprint and recommit the bill now under consideration. I should, said Mr. R., be in favor of both, if I could be persuaded that reprinting and recommitting would make it better understood; for I am quite sure it is not now understood by some gentlemen in this House. I learn the fact from private conversa-

tion and public speeches. I particularly allude to two speeches delivered yesterday, accompanied by tabular statements and references, by a gentleman of Virginia, [Mr. ALLEN,] and a gentleman of New York, [Mr. MANN.] I question the expediency of recommitting this bill, at least before it be further examined. I have paid some attention to the subject, and desire to make some explanations of the bill, and to correct, as far as I may be able, some errors in point of fact and argument into which the gentlemen of Virginia and New York, and some other gentlemen, seem to me to have fallen. The gentleman of Virginia, [Mr. ALLEN,] who first addressed the House yesterday, commenced by distrusting legislation which appealed to gratitude, national pride, and, as I understood him, to the passions and feelings of this House, instead of their deliberate judgment. The gentleman delivered his argument in the most cool and dispassionate manner, and in so doing he imitated the whole discussion. I am wholly at a loss to imagine what could lead the gentleman so solemnly to deprecate the influence of feeling and impulse. During the discussion of this bill there has been no appeal to the heart, or to the passions. It has been a cold appeal to justice, and the questions presented have been questions of dollars and cents. The gentleman informs us that the officers of the navy (1,049) now receive $770,000; and that, if the bill before us becomes a law, they will receive $200,000 in addition to their present pay. He is opposed to this additional allowance, and to the bill, because, in his opinion, it is not calculated to equalize the compensation of the officers of the army and navy. It will be remembered the bill before us was drawn with a view to that object. I have not learned from the argument of the gentleman that he made any objection against raising the compensation of the navy as high as that of the army. The gentleman has given a minute statement from the Blue Book, showing the compensation of the officers of the army, and the inference he draws is, that this bill is not such as it should be, because it raises the compensation of the officer of the navy much higher than that of the army. From the scope and tenor of his argument, I understand he is willing to give the officer of the navy the same compensation as is allowed to the officer of the army. By the regulations of our Government, the corresponding rank and grades of the army and navy are as follows:

A captain in the navy over 15 years' standing, ranks with a major general in the army.

Under 15 years' standing, with a brigadier general.

Over 10 years, with a colonel.

Under 10 years, with a lieutenant colonel.

A master commandant with a major.

A lieutenant with a captain.

If it can be shown that the gentleman is entirely mistaken as to the compensation of the officers of the army, I apprehend his whole argument, and all the inferences drawn from such premises, must be erroneous. Then it becomes all-important in this discussion to ascertain with precision what compensation has been in fact allowed and paid the officers of the army. By compensation, I mean to include all allowances—all that is paid an officer for his services by the Government. The President of the United States on the 5th of December, 1833, submitted a plan to equalize the pay of the officers of the army and navy, to the Senate, by a report approved by him from the Secretaries of the army and navy. I consider that report, and the documents accompanying it, as to facts, authentic and unquestionable authority, and ask the particular attention of this House to the following table, which may be found in that report; and it exhibits the maximum amount of pay and stated allowances which the respective grades of the army can receive, and the average amounts actually received during the year 1832. (See 2d vol. Reports of Committees, 1st session 22d Congress, Report No. 295, p. 25.)

	Actually received.	Maximum amount.
Major general,	$6,528 80	$6,634 00
Brigadier general,	4,265 20	4,515 00
Colonel,	2,678 80	3,014 00
Lieutenant colonel,	2,329 80	2,497 50
Major,	2,099 40	2,231 50
Captain,	1,442 91	1,569 00
First lieutenant,	1,103 52	1,443 00
Second lieutenant,	1,027 40	1,383 00
Brevet 2d lieutenant,	1,027 40	1,383 00

I will not compare it with the statement of the gentleman, or attempt to account for the discrepancies. It is sufficient for my purpose that the statement I present cannot be controverted. I invite gentlemen, and particularly the gentleman from Virginia, [Mr. ALLEN,] to compare the compensation provided for officers of the navy by this bill with the table or compensation actually received by the officers of the army. Every gentleman who will institute the comparison will be satisfied that the pay of the officers of the navy is not raised by this bill higher than the pay of the officers of the army. The bill we are considering does, in fact, place the compensation of the officer of the army and navy substantially on the same footing. It does justice to the navy.

But the gentleman from Virginia [Mr. ALLEN] warns us not to be influenced in the measures we are called upon to adopt, by the heroic deeds of those who won for us so much honor and glory in the late war; for, he observes, these heroes are dead, or most of them are dead. I am very happy to say the gentleman is mistaken in point of fact. Some of those distinguished men are dead, but, thanks be to God, many, and a majority of those heroes who, during the late war, "plucked our drowning honor from the deep," still survive, and deserve to live in the recollection of their country, and to share its justice. If those distinguished heroes, as the gentleman supposed, were no more, should we have no respect for the living—no regard to the future—no desire to see others occupy their births who would nobly sustain their character and emulate their deeds of valor and heroism? I have been inclined to make as few comparisons between the army and navy as possible: they are dangerous. Comparisons are said to be odious. They may tend to excite jealousy and hostile feelings between those who should be friends. I protest against any such intention. The army and navy are both useful—both necessary to the defence of the country. But the comparison has been instituted and pursued, and it becomes necessary, to a certain extent, to examine the statements.

The gentleman from Virginia speaks of the great and extraordinary expenses to which officers of the army are subjected for horses, forage, &c. As an offset, let it be remembered that officers of the navy are compelled to provide an outfit for a three years' cruise; that in all their stations they are constantly meeting the navies and officers of other nations, who accord to them the highest respect and civility, and, whatever be their means, however humble as to property, their high sense of charater, representing the nation, will always compel them to return the civilities shown them; and, however plain the style, it does subject them to serious expense. This subject is so important, that the Secretary of the Navy, in his annual report, calls the particular attention of Congress to it. In prosecuting his argument, the gentleman still insists upon pursuing the comparison between the army and navy. He observes, in time of peace, the officers of the navy have a much more pleasant employment than the officers of the army; for they have an opportunity to see all parts of the world, &c. Our navy is divided into four

squadrons: one is stationed in the Mediterranean, one in the West Indies, one at Brazil, and one in the Pacific. Three years are now fixed upon as a term or voyage on each station, and no one can expect to be relieved, or return home, short of that period. And, after such term of service, it seems but reasonable they should be permitted to visit their families, and this is "leave of absence," about which we have heard much. A journey to a watering place, or a tour in our own or in a foreign country, for instruction or amusement, might indeed be pleasant. But to one who had been confined to a ship, as a dungen, for twenty or thirty years, there cannot be much novelty; and the duties and responsibilities of providing, commanding, and navigating a ship, are too great to allow opportunity or leisure for study or amusement, except in their profession. They, indeed, perform these long and dangerous voyages cheerfully, because it is their duty. If they find pleasure under the severe privations and evils they must unavoidably suffer, it is in their patriotism and devotion to their country.

In fixing the compensation of the officers of the navy, much has been said about prize money. The Secretary of the Navy, in his communication of January 15, 1834, observes, "the different characters of the two services on land and water, in various particulars, and especially in respect to the right of prize money, have caused, heretofore, a greater inequality against the navy than is believed to be proper," &c.

Ships and fleets in time of war often sail under special instructions, from which they cannot deviate. They cannot pursue merchant ships, the most valuable prizes; and if they meet and capture them, they cannot spare men to send them in. A very small amount was actually obtained in prizes during the late war by our navy. Some special acts were passed making liberal allowances for captures and property destroyed. I have been informed by a respectable lieutenant of the navy that he has been a lieutenant of the navy seventeen years, and has aided in capturing nine vessels, and has realized as prize money only $12 75.

But the gentleman warns us to be cautious in legislating upon this subject, lest we drive the people to adopt the Jeffersonian policy. I do not know that I understand what the gentleman means by the Jeffersonian policy. Does he mean that policy which was once denominated the terrapin policy? the policy of retiring from the ocean and drawing ourselves within our own shells. If that be the policy the gentleman alludes to, I am quite sure the people of this country will neither desire it or submit to it. For what purpose are the whole country struggling and vying with each other in improving the navigation of their rivers, and making railroads and canals, all, all leading to the ocean? If that ocean be not the great highway and avenue to a market, internal improvements will be comparatively of little value. Our ships vex every sea and visit every part of the habitable globe, civilized and savage. They seek the best markets, and all markets, for the produce of the country. They bring in return what their country desires. The enterprise and competition of our merchants ensure the best price for our products, and our commerce belongs to the country, and the whole country. Our national prosperity must, in a good measure, depend upon commerce, and surely it will never be abandoned by those who know, and duly estimate, their just rights and dearest interests.

I will not take the time of the House in commenting upon the second section of the bill, which provides that the Secretary of the Treasury shall hereafter deduct three per cent. from the pay of the commissioned and warrant officers of the navy, as a fund for the relief of the widows and orphans of deceased officers. The gentleman on my left [Mr. Mason, of Virginia,] has already sufficiently explained the object of the provision. Officers of the navy, from their habits, employment, and situation, are poor managers of property. Conscious of their inability and improvidence, the officers, with a liberality almost peculiar to themselves, are very generally willing, and request that three per cent. of their pay may be set aside as a fund to support the unfortunate widows and orphans of deceased officers. I have been inclined to support the section, beliving it might be useful. It does not seem to me, as those who oppose the bill apprehend, "that it is unjust, or dangerous, or unconstitutional, or unprecedented." One precedent has already been given; it is what is called the navy pension fund. I will give another case in point. I now refer to what is called hospital money. Are gentlemen aware that every seaman, however poor, is required by the Government to pay twenty cents out of every month's hard earnings and small earnings? This tax has been imposed, and this sum always required of seamen from the very formation of our Government. Some complain, as they never derive any benefit from it; but it is considered a wise provision, and Government exacts it as a fund to enable them to provide hospitals for destitute seamen. I have been favorably inclined to the provision of the bill in question, but I am not tenacious. If any considerable portion of the members favorable to the bill, desire it should be stricken out, I shall acquiesce, and still support the bill. It deserves not the name of a pension. We have no pensions, or pensioners, in the United States, in the odious sense of the word, viz: "a slave of State hired by a stipend to obey his master."

The gentleman of New York, [Mr. Mann,] who spoke next after the gentleman of Virginia, [Mr. Allen,] is opposed to the bill in all its parts, not saving and excepting its very title. It is entitled "a bill to regulate the pay," &c., because it proposes to fix and establish the pay by law, and not leave it in the power and discretion of the Department to make various allowances which may more or less increase the compensation. Yet the gentleman admits the title is at least harmless; for, he says, "a rose by any other name would smell as sweet."

The gentleman warns the House to beware of the ballot-boxes. I trust we are striving to do our duty according to the best light and knowledge we can obtain, regarding and consulting the best interests of our country. Why look over our shoulders back to the ballot-box? Will it not lead us to make crooked furrows in legislation? It is a maxim of seamen not to look one way and row the other. We have no interests but the interests of our constituents. Let us act with strict regard to duty, and the ballot-boxes will do us justice; if not, we shall be conscious of our own integrity, and that will sustain us.

Although we have adopted the forms of other Governments in relation to our officers in the army, for some reason a very different policy has prevailed in relation to the navy. We have generals and major generals, but no vice admirals or admirals. No other nation, with a navy as large and efficient as ours, is destitute of that high rank of officers. Our senior captains are required to command fleets without the compliment or title of admiral, or the benefit of the compensation allowed to such officer. They do not ask or desire it. But because a small additional pay is proposed to be given them, the gentleman from New York calls it seeking to make distinction between officers of the same grade, by denominating them "senior captains," or "concealed admirals," as he terms it, and confesses he is a little jealous of "titles and dignities under the Government." It seems to me, the gentleman is not a *little* jealous. We have a number of captains, and no higher grade. One must have the precedence, or great confusion would prevail as to command, and this humble title, "senior captain,"

alarms the jealous and jaundiced imagination of the gentleman, and he thinks he sees concealed, "admirals," "titles and dignities," under "false colors." If the gentleman sees them at all, he must see them under "false colors," for they are mere phantoms of his imagination.

The gentleman expresses some surprise that this House has been furnished, under the sanction of the Navy Department, with tabular statements of the compensation allowed by Great Britain and France to the officers of their navies. We may obtain some information from these statements, though I confess they seem to me but illy calculated as a rule to direct us. But the gentleman, though surprised that the Secretary should give his sanction to such monarchical principles, has made more use of those tables than all the House besides. He states that the admirals in the British and French navies receive $7,900, and $7,500, in time of peace, and fifty per cent. more in time of war, and he adds, "these things are brought into the House to teach us poor republicans how very far we are behind the oppressive aristocracies of European countries." Yet, in pursuing his argument, the gentleman entirely forgets himself, and notwithstanding his severe denunciation against "aristocracies," and his delicate censure of the Secretary of the Navy for his seeming sanction, he himself seems delighted with British and French pay, aristocratical pay, half-pay, to all subordinate officers. I am aware the gentleman censures the high compensation given to admirals, and why does he not disapprove at least the low pay given to lieutenants and midshipmen, and all subordinate officers? It is one system. The first officers receive very high compensation, and the lower and humbler officers a mere trifle. It is contrary to the genius and spirit of our institutions and opinions. The gentleman is in favor of levelling down, but not for levelling up. The gentleman informs us, and seems to quote with peculiar satisfaction, the compensation allowed by Great Britain.

In the British navy, a lieutenant of seven years' standing, first rate, is allowed - - -	$663 78
All other lieutenants, - - -	531 02
Midshipmen, - - - -	138 52
In France, lieutenants of ship of the line, -	450 00
In France, lieutenants of frigate, - -	337 00
Midshipmen, - - - -	150 00

I consider these compensations as founded upon the same aristocratic principles as were those of the admirals, so much complained of; and yet, unless I mistake entirely the whole scope and object of his reasoning, they meet his approbation. Would the gentleman desire to see our officers, of the grades above named, reduced to the same pitiful compensation?

The gentleman complains that the chairman, in presenting his reports in support of this bill, did not furnish a report and bill prepared by the Secretaries of War and Navy, and approved by the President, and sent to the Senate. He informs us that, by that bill, the compensation allowed to the officers, except I believe two or three of the highest grades, is uniformly lower than that allowed by the bill before us. By the report the gentleman refers to, with some approbation, as coming from the President and Secretaries, the senior captain of the navy, while on duty at sea, is allowed $5,500, $1,000 more than the bill before us. I wonder the gentleman did not see the "admiral in disguise" in that proposition.

The gentleman states that it has been alleged in this debate, (and I say truly,) that the compensation of the navy was fixed in 1799; and he adds, whatever else that administration had been censured for, it was not guilty of being in favor of low salaries. Here the gentleman must yield to facts which speak louder than words. If the administration of 1799 fixed the salaries and compensation sufficiently high, how does it happen that subsequent administrations have raised those salaries in almost every case, and some repeatedly. For example—

	1799.	1835.
Salary of Secretaries, - -	$5,000	$6,000
" Postmaster General, -	3,000	6,000
" Attorney General, -	3,000	4,500
" Comptrollers, - -	3,000	3,500

The gentleman, in the course of his argument, has been opposed to the compensation of the army and navy. He denounces the Blue Book for not "telling half the truth." He is opposed to the bill before us, in the general and detail, and he is opposed to the allowances under the present law proposed to be repealed by the bill we are considering. It does seem to me his jealousy and zeal have betrayed him into some errors and inconsistencies. It appears to me the bill we are considering has been misunderstood. I beg the attention of the House for a few minutes, while I endeavor to state its principles and explain some of its provisions.

It is provided by the bill that a senior captain in service shall receive - - - -	$4,500
On leave, or waiting orders, - - -	3,500
Navy commissioners, - - - -	4,000
On other duty, - - - -	3,750

Of this class of officers, which may be denominated the first class, we have thirty-seven, but only four can receive the highest compensation, because we have only four squadrons at sea. Of the second, only three can receive the 4,000 dollars, as we have only three navy commissioners. Yet it has been repeatedly asserted, in the course of the debate, that these thirty-seven officers would receive each and every one the highest compensation named.

The captains of our navy who command fleets and perform the duty of admirals, after fifteen years' service, rank, by the regulations of our Government, with a major general in the army. It appears by the report of the Executive that the amount of compensation actually received by a major general, in the year 1832, was $6,528 80. No one has proposed or desires to give the oldest captain in the navy a sum any thing like that above named; yet there are gentlemen in this House who complain and object to the bill now before us, because it fixes the salaries of the officers of the navy too high, when compared with the army. Those captains in the navy who have served less than fifteen years rank with brigadier generals. The pay of brigadier generals, including allowances, by the same report, was, in 1832, $4,265 20. I will not pursue the inquiry. If gentlemen are disposed to equalize the pay of the army and navy, surely there can be no serious difficulty. We know what the officers of the army have received; we know the corresponding grades in the navy.

The second class of commanders, or masters commandant, as they have been called, rank with majors in the army.

The bill provides for this class—	
On sea service, - - -	$2,500
On other duty, - - -	2,100
Waiting orders, - -	1,800

Of this class we have forty-one, but we have but eleven vessels for them to command, and of course no more than eleven can receive the compensation of $2,500. Majors in the army actually receive, by the report I have alluded to, $2,099 40; very nearly the same as, on an average, is allowed the commanders above-named.

Third class, lieutenants, rank with captains in the army.

Pay proposed by the bill—	
Commanding, - - -	$1,800
Other duty, - - -	1,500
Waiting orders, - - -	1,200

Of this class we have 251, but only seven can receive the highest sum, ($1,800,) as we have only seven vessels for this class, (many of whom are competent to any command.) This class ranks with captains in the army. Captains in the army received, by the report I have already often alluded to, $1,442 91. The average amount, by the bill, given to lieutenants, it is believed, cannot exceed that sum. I have had occasion, in the course of this debate, to state that the compensation of the officers of the navy was fixed thirty-seven years ago. Great changes have since taken place. Some officers of the first importance, as boatswains, gunners, sail-makers, and carpenters, have received a compensation entirely inadequate; and suitable men, in some instances, could not be found to do those duties. We have suffered loss of lives and property in consequence.

Mr. Speaker, I feel deeply interested in the prosperity of the navy of the United States. I believe the prosperity, and even safety, of the country must, in a very great measure, depend upon it. I trust my opinions and habits are as far removed from extravagance, and extravagant compensation, as any member of this House. The laborer is, indeed, worthy his hire, and a just compensation must depend upon the nature and character of the service performed. I have no feeling or interest but that of an American citizen, nor would I desire that my children, or particular friends, should participate in these high compensations, (as some gentlemen think;) because I believe, considering their situation, privations, &c., they are not, and will not, be desirable posts. Our navy has been called one arm of our national defence. Mr. Speaker, it is the right arm. This country, hereafter, in the event of a war, must be defended by "wooden walls." We are in no danger from Canada, Mexico, or from the poor and miserable remnants of Indian tribes, either on this side, or beyond the Rocky mountains.

I hope as ardently for the continuation of peace as any man; for I consider war as one of the greatest calamities that can befall a nation. But it is sometimes unavoidable. The same tempers and lusts from whence wars and fightings have sprung, still hold a place in the human breast. As it is the province, so it becomes the duty of Government, in time of peace, to be prepared, at least to some extent, for war. Preparation may preserve us from the evil, by preventing its occurrence. War is not ordinarily declared without looking to consequences. If, by the mercy of a kind Providence, we are permitted to escape the awful calamity of war, being free from its evils, burdens, and privations, the people of the country will cheerfully pay all lawful and proper expense to support and sustain our small but efficient army and navy. In peace a part of our navy is needed, and most usefully employed. Our navigation, commerce and fisheries, visit every part of the globe. Policy and duty require of us to afford them national protection. Our navy has saved us the price and dishonor of paying tribute to the Barbary Powers. It has protected and preserved us from pirates and robbery upon the ocean. It compels savages to fear and respect us, and opens an avenue to commerce alike beneficial to them and us, and promotes their improvement and civilization. It affords a refuge and sanctuary to our citizens far from their native country, amid convulsions and revolutions, when government ceases to direct and control man. It has, and I trust will continue to command, the respect and admiration of the world. Our navy is worthy of our regard and protection, and the question presented for our deliberation is, what measures are wise and expedient for us to adopt to sustain our gallant navy, while it so gallantly protects its country! Our eyes are naturally first turned to the officers. I know a high sense of duty and warm patriotism are the mainsprings of their action. But they deserve, and should receive, from their country, food and raiment: in a word, a fair and suitable compensation for their services. What should that compensation be?

1st. War or fighting is not a pleasant or desirable employment. War upon the ocean is fraught with dangers and evils unknown to armies upon the land. Upon the ocean, man is called to contend not only with his human enemies, but with the warring elements.

2d. An officer of the navy has two things to learn—the art of warfare and the art of navigation. To learn these arts is the labor of a man's life.

3d. Their employment, long absence from home, &c. prevent their attending to or engaging in other business, more or less profitable to almost all other classes of citizens. They are unavoidably subject to the expense of keeping two establishments, one for their family at home, and one for themselves on ship-board.

They, as well as officers of the army, are subject to frequent removals. It is required more effectually to secure the most efficient service of officers and best interests of the country. But it is a severe requisition. It adds greatly to their expense, and compels them to make great sacrifices of comfort and property. It has been said three removes are as bad as a fire—that a rolling stone gathers no moss. We keep these men almost constantly rolling, and some of our distinguished officers, I have been informed, have been required to remove twenty-four times. The first grade of officers must be presumed not only talented, but fortunate and successful, to rise by regular gradation to the highest distinction. In quiet and peaceful times it must be the labor of one's life, and a few who may hereafter attain it will enjoy it but a very short time. The second and third grades, masters commandant and lieutenants, are of a higher order of character and qualification than the same grade of officers in France or England. We have many lieutenants qualified to command ships; but, whatever their qualifications may be, there are no ships for them. Hope opens no such door of promotion. They must remain lieutenants. Let them be well paid, not upon the monarchical principles of England and France, but upon the more liberal principles of our own Government and institutions. I would make, once for all, the same remark of all the under officers, chaplains, surgeons, surgeons' mates, schoolmasters, and midshipmen. What is a just and proper compensation for their service, taking into consideration all the circumstances? The country is justly obligated to compensate them fairly and liberally for their services; and if we can ascertain what that pay should be, I have no doubt the people would pay it freely. I would avoid extravagance; if any part of the compensation be too high, let it be reduced. I am not aware that it is so. If the three per cent. fund, as it has been called, gives offence to the friends of the bill, (though I am in favor of it,) let it be stricken out; I do not consider it essential. There is, unquestionably, great difficulty in agreeing to the details of this bill. I beg its friends not to be discouraged. It has been agreed on all sides, by the Executive, Secretaries of War, Navy, and by Congress, by repeated resolutions and committees, that it is high time to revise the law fixing the compensation of the officers of the navy. I trust gentlemen will yield opinions upon such parts of the bill as may not be deemed essential to secure its passage.

Mr. REED was followed by

Mr. JARVIS, who rose and offered an amendment, which was read by the Clerk.

Mr J. said he professed a friendship for the navy, but he trusted it was an enlightened and judicious one. He wished to see some advance in the pay of naval officers; but he thought some of the provisions of this bill went beyond all reason. If passed, he believed it would

tend to render that important arm of the national defence unpopular with the people, with whom it had always, up to this day, been extremely popular. He asked how their constituents would manage this thing, if it were placed directly in their own hands? Most members of Congress had also belonged to their several State Legislatures. There was not a State judicial office with a salary higher than $2,000. The Governors of five States received but $1,000 per annum; five $1,500; and five more not exceeding $2,000. He could only attribute the liberality of Congress on these occasions to the zigzag manner in which the expense was defrayed. In the collection of State taxes, the tax-gatherer meets you at your door, face to face, but not so with a tax collector through the customs. Mr. J. said he would venture to assert that, if these salaries were to be raised by direct taxation, not one member on that floor would record his vote for this bill, unless he expected to vacate his seat on that floor at the close of the session. The increase proposed was more than sufficient to cover the whole expenses of each of three-fourths of the States, and more than the average of that of the whole of them.

After some further remarks from Mr. JARVIS,

Mr. CROCKETT said he did not know how the motion he was about to make would be received by the House, but his object was to come to a determination on this subject some way or other. The House had already spent two weeks on this bill, and, to all appearance, were likely to spend two or three more, unless some final stop was put to it. In the mean time, there was much important private business on the table, and, among it, some that greatly concerned his constituents. He therefore called for the previous question.

A majority of the House, however, did not second the motion.

Mr. WISE expressed a desire to address the House; but as the day was somewhat advanced, he moved an adjournment.

The motion was negatived.

Mr. WISE addressed the House as follows:

Mr. Speaker: I am in favor of the amendments proposed by the gentleman from Kentucky, [Mr. POPE,] and would sustain them, if I thought we could go into committee with safety to this bill. But, believing that the motion to recommit will be used, not by the gentleman himself, however, to defeat this bill entirely, I shall oppose the recommitment, and support the bill as it is, rather than endanger its passage by attempting to amend its minor defects.

My colleague, [Mr ALLEN,] who addressed the House the other day in opposition to this bill, distrusted all legislation which appeals to prejudice or passion—to feelings of national pride or glory; to neither of which does this bill appeal so much as to an enlightened sense of national justice and policy, and individual right, founded solely on the just law, "that the laborer is worthy of his hire," and that the faithful servant who labors much, risks much, is responsible for much, and deprived of much, in important public service, should be adequately paid in proportion to his labor, his risk, his responsibility, and his privation. Sir, I fear there was no necessity to awaken distrust against this proposed increase of the pay of the navy. There was no manner of danger that this House was about to be carried away by any intemperate zeal, by any passion or prejudice, or by any feeling of national pride and glory for the navy. Far, far from there having been too much feeling for this class of public officers, there has always been a total want of feeling or interest in their behalf. They have repeatedly come, and you have as repeatedly sent them away empty; they have cried, and you have heeded not their petitions; they have knocked, and the treasury has been closed against them; and this, too, when others have come, and you have loaded them with gold; when others have but whispered, and you have nodded your assent; when others have taken the key, and opened the door without knocking, and you have turned away your heads from the robbery of the treasury, to keep from being State's evidence! The army pay has been increased; the Secretaries have been made courtiers; their clerks, like candles, are yearly newly dipped; one Department has learned to take the public money without asking, and you have made all extra appropriations asked for besides; have put your own hands pretty deeply into the public purse; and the very messengers, footmen, "Columbia's white slaves," of you all, are richly larded with the very drippings of extravagant expenditures of the public money. And look at the navy pay list! The very same it was in the time of Paul Jones, and the only pay list of any branch of your service not stained with wastefulness, but pale and meager with degrading parsimony. And now, forsooth, you are told not to let a sense of national pride and glory carry you away, in the midst of all this scene of extravagance on other subjects, in preventing the elbows of your captains from peeping through their coat sleeves on the quarter decks of your proudest ships on foreign stations! Sir, I do invoke the national honor and pride to remove injustice, to preserve something like equality of pay amongst all public servants, according to their duties and responsibilities. No one need invoke the glorious achievements of your navy, which has proved to be one of the most faithful public servants, to increase the pay of its officers for the purposes of gratifying pride merely, when your present Secretary of the Navy reports that their pay "is altogether inadequate to an honorable discharge of their duties." Yes, sir, "to an honorable discharge of their duties;" and when, too, your own committees have reported it to be "degradingly low."

It is with these reports and this evidence they approach you—saying, proving, that the inadequacy of their compensation is killing to their spirit, their pride, their honor, and common honesty; weakening to the navy's strength, injurious and destructive to the public interest, by degrading and corrupting the country's fighting men. It is upon these topics of justice and interest, and not of glory, though of national honor and pride as connected with justice and interest, that I mean to speak; though I cannot see the unfairness of a good and faithful servant's pointing to his well doings, when he comes to ask justice at the hands of those whom he has nobly served, especially if he has been more than thrice ungratefully refused his just dues. He should be paid in some gain, and not all in glory; and if, in seeking his dues, he should happen to speak of his deeds, his solid argument of inadequate compensation should hardly be impaired in our minds by his stirring up the recollection of his past glorious services to the country.

Sir, I wish to present some facts to the House. The gross amount of the present pay of the commission and warrant officers, provided for in this bill, is, in round numbers, - - - - - $770,000

The select committee first proposed an increase of - -	$116,000	
By its second report it proposed an additional increase of -	84,000	
All the amendments in the Committee of the Whole, and in the House, have increased the pay	6,000	
Making the whole increase - - -		206,000
The gross amount of pay, as proposed by this bill, - - - - -		$976,000

Relying, then, upon the reports of the Department and of the committee, that there should be some increase, the sole question is, whether this amouut of increase is too much? The present pay of the navy was fixed in the eighteenth century. The changes since then have been great in every point of view. Though articles of family and personal consumption are perhaps lower now than then, yet the wants of men have multiplied in a quadruple ratio. Respectable living is much higher to the officers. What was respectable living then is mean now, to almost every grade and class of society. The navy itself has greatly increased, and its duties multiplied; the responsibilities of its service much more onerous than formerly; the living of officers, their duties and responsibilities then, being to the living of officers, their duties and responsibilities now, as a ship of war then would be to a line of battle ship now. The present pay is said to be "degradingly low." I should think, then, that the sum of $200,000 was no very great increase to raise the pay of so many officers and men from such a condition to that of a respectable footing. This sum appears reasonable to me, especially when the whole list, with its increase, will gain by comparison with that of any other branch of service. And if the increase of pay is not in the aggregate too much, there is no reason for recommitting this bill on account of its form. The officers of every grade more generally unite in approving the pay proposed, and its distribution, and are better satisfied with what they call the "symmetry" of this bill than with that of any other ever proposed. For this I have the authority of respectable officers of every grade. And the main object of this bill is not only to increase and regulate, but to equalize the pay of the officers—not to equalize the pay of the army and navy, but to equalize the pay of the navy by itself. It was found wholly impracticable to compare the pay of the army with that of the navy. There can be no assimilation of the pay of the two, because there does not, and cannot, exist any relation whatever of grades and duties between them, except by the mere arbitrary regulation of the two Departments, for the idle purposes of etiquette. There are and must be more numerous grades in the army than in the navy. And the duties of a sailor to those of a soldier can no more be assimilated than the fishes of the sea to the birds and beasts of dry land. But as a comparison was instituted by my colleague, I must beg leave to set him right as to certain errors of which he was guilty, both as to the pay of the officers of the army, and as to the relative pay of the army and navy. By regulation of the Departments alone,

Commodores rank with brigadier generals;
Captains with colonels;
Masters commandant with majors;
Lieutenants with captains.

Now, sir, my colleague very honestly, no doubt, but very unjustly to the navy, took the pay of thirty-six captains of the navy, (a commodore is nothing more than a captain,) and compared its gross amount with that of one major general, two brigadier generals, and the colonels of the army. The balance was large, of course, against the navy. But, sir, it was a false balance. There is no grade of the navy as high or corresponding with that of major general. Below him to the rank of captain in the army, with whom a lieutenant of the navy ranks, there is a most numerous list of superior officers, all ranking higher by brevet than their nominal grades, and some of them receiving the brevet pay. In the navy the highest rank is that of captain. There is no topmast higher to which a sailor may climb. Here promotion in the navy is dammed up, and the number of this rank is, of course, comparatively much greater than that of the corresponding rank in the army. But, as the first grade of the navy ranks with brigadier generals and colonels, and the second grade with majors, we must compare the pay of the navy captains with that of all the officers of the army, from major generals down to majors, with whom masters commandant rank. How stands the comparison then?

From major generals to majors, according to the report of the Secretary of War, there are thirty-eight generals and colonels and lieutenant colonels, as offsets to the thirty-six captains of the navy. How stands their relative pay? Sir, I will not touch that Blue Book, a lie upon the calendar. I refer you, sir, to Adjutant General Jones's report to Congress in 1832 and 1833. He makes the statement of the army pay, under the present law—

Rank.	*Total pay per year.*
Major general,	$6,512 64
Brigadier general,	4,422 32
Colonel,	2,941 32
Lieutenant colonel,	2,372 32
Majors,	2,106 32

This table, with the notes, will enable us to ascertain very nearly what the army pay is.

"Note.—Officers are required to keep their servants and horses, to entitle them to their allowance."

"Double rations are allowed to officers when commanding separate posts, and are to be added to the above in such cases."

"Fuel and quarters are allowed by regulations, and paid through the quartermaster's department, and are not included in this table."

The subsistence or rations of a major general, per year, amount to $1,095.

Double rations,	$2,190
House rent (fuel not included) about	800
Double rations and rent,	$2,990

Excluding fuel, and taking only single rations, the pay of major general is	$8,607 64
A brigadier general's pay at a separate post, allowing $600 for house rent, and exclusive of fuel, is	5,898 32
A colonel's pay at a separate post, allowing $400 for quarters, exclusive of fuel, is	3,379 32
A lieutenant colonel's pay at a separate post, $350 for quarters, exclusive of fuel, &c., is	2,806 32
A major's under same circumstances, allowing $300 for rent, is	2,698 32

But this is not the worst of it. Nearly all of these grades, and many of the captains, have separate posts. Besides, the brigadier generals are major generals; the colonels, brigadiers; the lieutenant colonels, colonels; and the majors are lieutenant colonels, by brevet.

There are not less than five officers in the army who receive the pay of major general.

Their pay and emoluments,	$44,038 20
The pay and emoluments of five commodores, commanding squadrons on foreign stations, is	14,700 00
Balance in favor of army,	$29,338 20

There are now but four captains of the navy commanding squadrons, called commanding by courtesy, who each receive, while employed as such, $100 per month,

	$1,200 00
16 rations per diem, at 25 cents,	1,440 00
Allowance for cabin furniture,	300 00
Per annum,	$2,940 00
Major general's pay, per year,	$8,807 64

Balance in favor of major general,	5,867 64
Brigadier general's pay and emoluments, including fuel, at $150,	6,048 32
Captain of navy, commanding a ship of the line,	2,160 00
Balance in favor of brigadier general,	$3,888 32

All the brigadiers in the army receive the pay of major generals; and nearly, if not quite, all the colonels receive brigadier's pay; while the sea pay of a captain of the navy, with all his allowances, is, per year, $2,160 00

Shore pay,	1,930 00
Master commandant's sea pay, with cabin furniture, is	1,350 00
Shore pay,	1,170 00
Lieutenants,	960 00

Sir, there may be some slight errors in this statement as to army pay and emoluments, for it seems there is no other way to ascertain them but by summoning your adjutant and paymaster generals to answer on oath what each and every grade of the army can receive under all the different heads of service. But this may be safely stated as a most favorable comparison to the army.

1	major general, at	$8,607 64
2	brigadier generals, at	11,796 64
35	other general officers, colonels and lieutenant colonels, at $3,000 each,	115,000 00
38		$135,404 28

The 36 captains of the navy, as they are now employed, according to the Secretary of the Navy's report, receive in pay and subsistence, for

8	commanding,	$18,360 00
9	at navy yards,	31,340 75
16	waiting orders,	30,780 00
1	on ordnance duty,	1,930 00
2	on furlough,	1,200 00
36		$83,610 75
	Excess of pay, &c., to army,	$51,793 53

The balance in favor of the navy, according to the present pay, is more than one-third.

What does this bill propose, according to the same service?

8	captains commanding,	$36,000 00
9	" at navy yards,	40,500 00
1	" on other duty,	3,750 00
18	" waiting orders,	54,000 80
		$134,250 00
	Leaving an excess still in favor of the army of	$1,154 28

Sir, this is nearer an equalization of the pay of the navy and army than gentlemen thought, though it does not bring the navy up to the army standard yet. For, besides these 38 officers of the army enumerated, there are quartermasters, commissaries, and paymasters, numbering 20, whose pay ought to be in addition to that of the 38 offsetted against the pay of the 36 captains of the navy.

The masters commandant rank with majors, 22 in number; and the lieutenants rank only with captains, 136 in number, when the first lieutenants hold the same relation to a frigate and crew that a lieutenant colonel holds to a regiment; the lieutenant colonels having no separate responsibilities whatever.

Sir, it is measuring by comparison the long with the short, and you must allow the lines of comparison to radiate. If this rule be attended to, and it cannot be neglected without injustice to the navy, you cannot but decide that the army, without higher responsibilities or rank, or greater labor, or more arduous duties, has greatly, out of all reason, the advantage of pay and emoluments over the navy.

The total number of the army, officers and men, is	7,198
Of the navy,	7,355
Number in the navy over the army,	157

The pay of the army is—	
In the quartermaster's department,	$613,000
engineer's department,	1,004,000
paymaster's department,	1,514,000
Total in these three departments,	3,131,000
Pay and subsistence of the officers and seamen of the navy,	1,505,126
Excess of the cost of the army,	$1,625,874

I have included the three departments of paymaster, engineer, and quartermaster, in this estimate of the army, because there are so many contingencies of pay to the officers of the army which are never reported in their pay proper. But, as far as I am enabled to judge, and from the special comparisons I have already made, the army is paid at least a third more than the navy, though the latter has a greater number of men in its service. Strange, then, strange indeed! that my colleague should have found so many apologies for the pay and allowances of the army, and that he could not find it in his conscience, or his arithmetic, to support this bill! Yes, sir, to justify even the extra compensation beyond the rich pay proper of the army, my colleague entered into an enumeration of the hardships of its service, and went so far out of his way as to station an officer on your western frontier. Now, sir, I put it to the candor of every gentleman at all acquainted with sea service, to say whether the hardships, exposure, privations, and dangers, of the navy, are not much greater, in time of peace or war, than those of the army! Indeed, sir, there is very little difference in the service of the navy in peace and war. The sailor, when he leaves his port, bound for a foreign station, to protect your commerce in time of peace, is still in a floating prison, as in war; when the officer of your army, on the farthest frontier, may yet have his wife, children, and friends, around him; and those who are stationed on your Atlantic posts may, married or single, enjoy all the delights of the society of ladies, ride thrice a week fox-hunting, or come as pleasure wills, to these galleries, to be edified by your sage debates. Wars and rumors of wars among nations change not the order of nature; imbittter no more the elements than in peace, lash no more the waves, project no more the shoals, threaten no more the shipwreck; wind and wave are ever at strife when man is at peace with his fellow-man, for the winds are the breath of the Almighty! The pestilence and the hurricane of piratical seas are still the same to the mariner, and those "*hostes humani generis*," the pirates, ever turn their guns against every ship of the ocean!

My colleague says, verily, that if you pass this increase of pay for the navy, the officers of the army will be dissatisfied! Sir, what right or cause have they to be dissatisfied, after the facts I have shown, unless they are disposed as the dog in the manger? This little, mean, ungenerous jealousy between different corps, between navy and army, officers and men—this disposition to grasp all, instead of to provide fairly for all, has proved the fatal cause of defeat to every bill intended to benefit the army and navy which has ever failed. I fully under-

stand this opposition from the army. The first proposition of this bill was to equalize the pay of the army with that of the navy. To do this, there was at first an attempt to raise the navy pay, and to reduce the army pay to a medium between them, as at present. This caused a trembling in the camp. To avoid a small reduction to itself, the army has violently opposed a small increase to the navy. But, sir, it was found impracticable to equalize the pay of army and navy. The army has been let alone, permitted to hold on to all it has got; and the proposition now is singly to increase reasonably the pay of the navy. Why should the army still continue its opposition? It is ungenerous; and a little radicalism may yet teach the officers of the army to repent of their present opposition to this bill in and out of doors. The officers of the navy are now, deservedly enough, taught a lesson of justice and fairness on their part, by some of the marine corps. That corps had a bill before Congress last winter, which I supported with all my heart, and which was opposed by the naval officers with all their hearts. They are now paid in their turn, sir; and but for my friendship to this bill, I would not be sorry for it.

Sir, both army and navy ought to be taught a lesson on this subject, by an honored old soldier, made generous and noble by seeing actual service. The views of my friend, the honorable gentleman from Kentucky, [Mr. R. M. Johnson,] the soldier and patriot I mean, are the correct views on this subject. There ought to be no invidious comparisons drawn between the army and navy. Each has fought, nobly fought, its own battles on the land and ocean, and each should now fight only for itself, and not against the other. I, for one, am so far a friend to both as to be willing to put them and retain them upon a respectable footing. But, why did my colleague not advert to that extravagant appendage to the army, the institution at West Point? Why did he, or the gentleman from Maine, [Mr. Jarvis,] not tell us how many State Governments, like Rhode Island or Delaware, the expenses of that academy would support? Why did they not advert to the engineer department of the army, alone costing the Government more than the whole pay of this bill; the round sum of $1,400,000 per annum? That, sir, is an engineer department; and my colleague happens to come from that section of Virginia which is made convert to the doctrine of internal improvements by the want of roads and canals, through mountains and valleys of mud and limestone rock! But of what use will his roads and canals be, for war or commerce, without a navy to command respect to our flag upon the high seas, and to prevent hostile aggression upon our shores? Roads and canals, for national objects I mean, but make the way clear for an enemy, when he has once landed, without an opposing navy. And without a navy to protect your commerce; ay, that commerce which floats the vast products of all the country, all your valleys and hills, of the world of the Mississippi valley, from its head sources to the mouth of the great father of waters; what will become of your exporting cities, and, consequently, of your internal trade depending upon their commercial prosperity and protection? What would be the cost of navigation, the price of ensurance on exportation? The navy subserves the interior even more than it does the seaboard, just in proportion as the whole country is a greater interest than its coast. In the language of our present Secretary, the navy is vitally important and indispensable, "whether in defending our property on the ocean from pirates or open enemies, our shores from hostile aggression, or our flag from insult."

And, sir, such arguments as were used by my colleague in relation to what the expense of a navy would effect, if applied to other purposes, go only to strike the flag of the navy itself. What better object of reasonable expenditure, liberal expenditure, can there be, than a navy for a country like this? Sir, there was a time when such arguments availed, and such a question was asked in doubt; but it is too late at this time of day to decry the navy by magnifying its expenditure, when it has fought its way to honor, respect, and popularity; has become its own practical argument; and when, too, we are on the very eve of a threatened naval war with one of the strongest maritime powers of the world. One million of dollars is a great sum, indeed, for a country as rich in resources as this, about celebrating the payment of its national debt, too, to support your entire list of superior and inferior naval officers, to contend and cope with the navy of France! Sir, my colleague did hope that this nation would wake up from what he calls this dream of military glory. For my part, sir, I never was in such a dream. But, if he has been in such a trance, to what has he awakened? A gunboat system! Pardon me for saying, if the country is to be again awakened to that dream, I hope she may sleep on. But I hope, sir, that the nation will not go to sleep, and forget that golden rule of national safety, "in peace to prepare for war." And if we do not pass this bill, and a naval war with a strong maritime power shall come, as it is imminently threatened, I trust to God that our seamen may not have to wake up in foreign dungeons and prison ships, from a dream of national glory once won by your navy, to scenes of naval defeat and national mortification and humiliation, caused by weakness in this "right arm of our defence," for the want of bountiful nourishment, to be charged in part to a false economy, and in part to a still existing enmity to our navy, which I had thought was obsolete, and which I pray may now be defeated and buried for ever.

Sir, my colleague objects to the reason assigned by the Secretary of the Navy for this increase of pay. Seeming to forget what the Secretary says about the compensation being inadequate "for an honorable discharge of duty," the gentleman looks only to the reason of enabling our captains to compete in extravagance with the admirals of other nations whilst on foreign stations. No, sir, although the admirals of foreign ships will hot at present return gun for gun to your salutes; and if ever one of our captains returns an unequal salute, I will do all in my power to have him broke!—all your navy asks of the people is, as far as consistent with republican simplicity and economy, to value and prize the labor, gallantry, and blood of American officers and seamen as high as that of mercenary hirelings is prized by monarchs and despots. My colleague asks, what effect this increase of pay will have on our officers themselves? Strange question! Why, sir, it will nerve, it will strengthen, it will brace, it will inspire them with new courage! It will assure them they have a country which sets a value on them. See! a ship of the United States manoeuvring for action with another Guerriere! Topsails are aback—behold them! Is not the blood of that captain standing on your quarter-deck as rich, as precious, as the blood of yonder admiral, girdled with star and garters? Where your captain gets thousands in dollars, that admiral is paid in thousands of pounds sterling, and the rate of pay is so down from admirals and captains to powder monkeys! The broadside is fired—

> "Yard arms and yard arms meet,
> Cannons' mouths each other greet."

She strikes!—which? If that American "star and stripe" comes down, honors and promotion, pensions and places, await the English crew! If the "Royal George," the American crew are grudged their prize-money! And captain once, always a captain! Yes, sir, my colleague and the gentleman from New York [Mr. Mann,] both dared—dared, I say—in the face of all

knowledge to the contrary, to compare the pay of the American navy with that of the English. The English!

"They want their porridge and their fat bull beeves;
Either they must be dieted like mules,
And have their provender tied to their mouths,
Or piteous they will look, like drowned mice."

Such was their character in the days of John Talbot, and they have not lost it to this day. The nominal pay of the English navy is, like that of our army, much less than the real, which is right hard to get at. Besides 50 per cent. in allowances, their pay is enormous in provisions alone. They have not, like our sutler and purveying officers, to lay in their own food from a scanty pay and ration, and their own blue cups and porringers to be broken by every lee lurch of the ship.

My colleague next urges, that the officers who are now to be benefited by this increase of pay, are not those who achieved the victories, and acquired the glory of your navy. This is an unkind cut, indeed! But, sir, my colleague would not have made this assertion, as far wrong as all his other facts, if he had made the acquaintance of our present naval officers. Though many happen not to have shared the fame, yet they are nearly all the very men who, in subordinate grades during the war, achieved the victories. Besides, the commanders now living, who were successful then, the men now commanding are the very naval heroes who fought under the flags of your Hulls, Decaturs, Perrys, Lawrences, Bainbridges, Biddles—

"Valiant and virtuous, full of haughty courage,
Such as were grown to credit by the wars;
Not fearing death, nor shrinking for distress,
But always resolute in worst extremes."

And I do not fear to pledge myself that, of them who did not fight during the last war, there will not be wanting those to acquire a fame in arms, and those to redeem by deeds of noble daring, as by present worth and science, from obloquy and reproach, a character once and now aspersed by malevolent and undeserved persecution.

But, Mr. Speaker, this Congress does not seem very "gloriously" affected towards the old tars who confessedly did literally lead your ships to action. During the war, when

"The Guerriere frigate bold
On the foaming ocean roll'd,"

And at the close of the war, when naval triumphs were celebrated every where, the navy was every thing; but it seems that our remembrance of its achievements has passed with the forgetfulness of our dangers, and there are none, even here, so poor as to do that old sea-dog, Isaac Hull, common justice, much less reverence! You insultingly turned him out of doors the other day, for presenting a just demand; and the glory of your navy must not now be named in asking for it but common justice, long delayed! Verily, sir, I begin to believe—and it is a hard lesson to be taught a young man—that

"Glory is like a circle in the water,
Which never ceaseth to enlarge itself,
'Till by broad spreading, it disperse to naught."

My colleague, lastly, attacked, as he attacked every thing in this bill, the three per cent. clause. Sir, my other colleague from Virginia, [Mr. MASON,] on another occasion, the other day, said every thing which could or can be said in defence of this feature of the bill; and I will only add my declaration to his, resulting conclusively from his explanation and argument, that there is not the semblance of a pension system in this provision. As the officers themselves desire it, and it will be a fund proceeding from their own pay, to which the attribute and sanction of law merely will be added, I do not object to it, though I do, as strongly as any, object to a pension system.

Having followed to the end of the chapter the objections of my colleague to this bill, I beg leave to offer some recommendations of it which he did not touch, and at the same time to answer some objections made by the gentleman from New York, [Mr. MANN.]

This bill abolishes the system of extra pay for special services, and the sytem of allowances, leaving a few, in certain cases necessary, but herein specific. This at once deprives the Navy Department of that odious power of imposition in some cases, and of favoritism in others, which, I am credibly informed, has been too often grossly and corruptly abused. There is nothing more important in my estimation, Mr. Speaker, than so to fix and establish by law the pay and the duties of your army and navy, as to effectually deprive the executive departments of all unnecessary control over either. Under the present system of allowances by regulation, maintained in no other way than by the shamefully large and negligent appropriations by Congress to contingencies, the executive control and power of patronage over the army and navy is increased without limit, and without responsibility. Both army and navy are perfectly at the will and mercy of the Executive, are made to feel constantly the power of that branch of the Government by the purse strings and by removal, and have long since ceased to feel any dependence whatever upon Congress.

Sir, I have often heard the truth, and perfectly accord with it, that the liberties of no people were ever destroyed by a military leader, until corruption had first cankered the vitals of the State, and thus, by debilitating the whole system, made it an easy prey for military despotism. And I will add, with respect to the future destinies of this country, that its liberties will for ever be preserved inviolate, as long as the Representatives of the people and the officers of the army and navy of the United States are kept pure, enlightened, virtuous, and patriotic, and they will ever be so, as long as they are kept independent and free from the influence of the federal Executive, and no longer. I do, therefore, fervently desire this House to adopt the wise policy of making our whole military establishment feel that it is paid, and liberally paid, by the Representatives of the people, and then I firmly believe, if we ourselves are true, and we continue this policy, there never can be danger from a bribed and corrupt soldiery, sustained, as well as appointed by executive favor. Nothing can be more dispiriting to the brave and proud commanders of your fleets and armies, than the necessity of flattering and "courting" for their rights; but, as sure as "man is man," where "thrift follows fawning," the spirit of the proudest and bravest will fly to their necessities; and a court beggar will bend the "pliant hinges of the knee" to power yielding places. I consider that this bill protects the service from abuses, and its officers from temptation and dependence, by fixing unequivocally by law an adequate compensation, fairly distributed amongst the different grades. But this, it seems, the gentleman from New York would especially avoid. He laid down upon this point the most licentious rule of false economy and fraudulent radicalism I ever heard. "The interest of the agent," he says, "is always opposed to that of his principal, and there never will be danger that our public servants will work for nothing. Their wants will sharpen their wits."

Now, sir, in the name of common honesty, what does this mean? In plain English, it is nothing more nor less than that he would pay poorly, and leave the rest to pillaging. This is his policy, and Heaven forbid it! The allowance, the extra pay, and the poor and pillaging pay system, costs this Government tenfold more, in my opinion, than the most extravagant fixed salaries would—constantly violates that clause of the constitution which provides that no money shall be drawn from the

treasury except by appropriations by law, and is the most busy evil of corruption that is now prostituting and degrading the public service.

But the most intolerable of all positions yet assumed by any one against this proposed increase of navy pay, is that by the gentleman from New York—the prize money, which officers may snatch from the jaws of danger and death, in wars which may happen. Sir, what is prize money? The law provides "if the capture exceeds or equals the force that captures, then the captors shall get the whole proceeds of the vessel captured. If the capture be of less force, then one-half goes to the United States, for the benefit of the pension fund." In other words, you say to your gallant navy, "go, sail the high seas over, and if you can find, and seize, from the battle or the breeze, a prize of superior or equal force, you shall have all you get; and if inferior to yourself, I will take from your hard earnings one-half!" Is this like pay? Does it take a dollar from your treasury? But does it not strip your enemies, and that, too, at the hazard of the fate of war to every naval officer who is thus to be enriched by such blood-bought spoils?

This, as an excuse for not raising their pay, is taunting to men who understand their rights as well as you do, and to whom you owe respect, at least, if not a debt of gratitude! To prove to you that they "know their rights, and, knowing, can maintain them," I will read the argument of a lieutenant of your navy on this point, in compliment to the intelligence and ability of its officers generally. He says:

"The chances of prize money are as the chances of a lottery; and it may be safely said that there are not more persons of the navy who have drawn prize money in proportion to the number of all the crews seeking it, than persons who have drawn prizes in lotteries in proportion to the number of persons holding tickets. A vessel has first to be fallen in with, then be captured, then sent in safety to the United States; and there are nine chances to one of recapture before arriving in our ports, especially when the enemy are powerful at sea—which must always be the case with any nation we are likely to be at war with. If the capture arrives safely, however, the greater portion of the proceeds (after paying double duties to the United States for all dutiable articles on board, and, in case of an inferior force, half the value of vessel and cargo) is eaten up by the various expenses—enriching only district attorneys, marshals, auctioneers, and prize agents; so that poor Jack and his officers get but a small slice for their shares. Many of our officers, who were thought to be very successful in taking prizes, realized only from 50 to $100 during their cruise; and many others were taken themselves and continued prisoners through the war. But, again, before prize money, there has to be a war; and then a long war, if at all. We are a nation of peace. Our whole policy is peace. It is now twenty years since officers and crews have had a chance for prize money. In the execution of other duties, your officers have not unfrequently made captures, when they have been held liable for heavy costs, harassed in suits at law; and, in some instances, obliged to beg relief from Congress. The amount of prize money received by the most fortunate officer commanding, during the last war with Great Britain, it is confidently believed, would not exceed ten dollars per month during his whole term of service. The amount for the most fortunate junior officer would not be three dollars per month.

"The ideas entertained in relation to prize money are extremely erroneous. If acquired at all, it is hardly fought for and dearly won--adds glory to our flag, and has nothing to do with the pay or emoluments of officers, for it never comes out of the pockets of the people. The argument would hold equally good against reducing or giving less pay to officers of the customs, in consequence of the possibilities or probabilities that may occur for them to detect goods about being smuggled, merely because they are entitled to half the nett proceeds, when the goods shall have been tried, condemned, and all the expenses paid. Men of war seldom deem it prudent to weaken the efficiency of their ships, by sending their men on board prizes; consequently, the great bulk of prizes taken are destroyed."

Such is the unanswerable manner in which the navy can reason for itself. In addition to this, I have the pointed authority of Lord Nelson for saying "that prize money is a saving to the State." It is "a saving to the State," taken from an enemy, and, though poor reward, a sharp stimulus to the courage of crew and commander.

But, sir, such arguments as these would not have been required in the year 1816, just after the war. Your navy magnanimously deferred its application for increase of pay then, because of the heavy burden to the public debt, added by that war, so gallantly and gloriously fought by sailors' arms "for free trade and sailors' rights." You have now celebrated the extinguishment of that debt; your treasury is a horn of plenty; and now, if you stint your navy, and war does come—

> "Look on thy country,
> And see the cities and the towns defac'd
> By wasting ruin of the cruel foe."

Sir, I beg of you, now, beforehand, to

> "Strike those that hurt, and hurt not those that help!
> One drop of blood drawn from thy country's bosom
> Should grieve thee more than streams of foreign gore."

When Mr. WISE had concluded,

Mr. WAYNE said that important questions, like the present, must frequently have their conclusion, upon the same principle which actuated the framers of the Government, in the principle of compromise. He was satisfied that the friends of the bill before the House could only accomplish their main objects by a resort to the principle to which he alluded. He had risen for the purpose of moving to strike from the bill certain passages which appeared obnoxious to some gentlemen. They were the same, with one or two exceptions, which were embraced in the proposition of the gentleman from Kentucky, [Mr. POPE.] His proposition, he conceived, would present a fair ground of compromise, and as no member, so far as he had understood, was opposed to giving adequate pay to those employed in the naval service, the House would, by mutual concessions, be enabled, he hoped, to come to a decision of the question without further difficulty. He therefore moved to amend the bill by striking out all that part relating to extra allowances, and to raising a fund by deducting three per cent. from the pay of the commission and warrant officers, for the relief of the relatives of deceased officers.

The SPEAKER stated that the motion required the unanimous consent of the House.

Mr. JONES, of Georgia, objected.

Mr. WAYNE moved a suspension of the rule, in order that he might be enabled to submit the motion.

The SPEAKER decided that the motion, under the circumstances in which it was presented, (there being other motions pending,) could only be made with the unanimous consent of the House.

After some conversation between the SPEAKER and Messrs. WAYNE, JONES of Georgia, CAMBRELENG, and HARDIN, in relation to the mode of proceeding upon the commitment, and the several instructions which had been presented, the latter gentleman moved an adjournment; which was carried.

The House then adjourned.

THURSDAY, JANUARY 8.

THE JUDICIARY.

Mr. TAYLOR, of New York, moved a reconsideration of the vote of the House, refusing to consider the following resolution yesterday offered by Mr. HAMER:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of amending the constitution of the United States, so as to limit the service of the judges of the Supreme and inferior courts to a term of years.

Mr. HARDIN wished to have an opportunity to explain his vote. He was not in favor of limiting the tenure of service by a fixed term of years, but he was in favor of altering the constitution so that, at the age of 70, 75, or 80 years, the judge should be compelled to quit the bench. He adverted to the fact, which he said was well known, that two of the judges, now on the bench of the Supreme Court, were upwards of eighty years of age; one of those judges, he added, had not, from imperfection of hearing, for ten years heard a legal argument, though he was one of those judges who might, by arguments of counsel—

Here the SPEAKER interposed, and stated that the question was not debatable.

Mr. MERCER hoped, he said, that he might be allowed to state that neither of the judges alluded to by the gentleman from Kentucky was eighty years of age. One of them was on the verge of eighty.

Mr. WILLIAMS called for the yeas and nays; which were ordered.

The question being taken, it was determined in the affirmative, as follows:

YEAS—Messrs. John Adams, John J. Allen, William Allen, Beale, Bean, Beaty, Beaumont, Boon, Brown, Bull, Bunch, Burns, Bynum, Cambreleng, Campbell, Carmichael, Carr, Casey, Chilton, Samuel Clark, Clay, Cramer, Day, Dickerson, Dunlap, Ferris, Forester, Foster, Fowler, Galbraith, Gamble, Gillet, Grayson, Griffin, Joseph Hall, Thomas H. Hall, Halsey, Hamer, Hardin, Harrison, Hathaway, Henderson, Howell, Hubbard, Inge, Jarvis, R. M. Johnson, Noadiah Johnson, Benjamin Jones, Kavanagh, Kilgore, Kinnard, Lane, Lansing, Luke Lea, T. Lee, Lewis, Love, Lytle, Abijah Mann, J. K. Mann, Mardis, M. Mason, May, McCarty, McIntire, McKay, McKinley, McVean, Miller, Robert Mitchell, Morgan, Muhlenberg, Osgood, Parks, Patterson, Peyton, Pierce, Pierson, Plummer, Polk, Rencher, Reynolds, Shinn, Smith, Standefer, W. Taylor, Francis Thomas, Thomson, Turner, Turrill, Vanderpoel, Van Houten, Wagener, Wardwell, Webster, Whallon—97.

NAYS—Messrs. John Quincy Adams, Heman Allen, Chilton Allan, Banks, Barber, Barnitz, Barringer, Bates, Baylies, Bouldin, Briggs, Burges, Cage, Chambers, Chinn, Clayton, Coffee, Corwin, Coulter, Crane, Crockett, Davis, Davenport, Deberry, Denny, Evans, E. Everett, Ewing, Felder, Fillmore, Philo C. Fuller, Wm. K. Fuller, Garland, Gilmer, Gordon, Gorham, Graham, Grennell, James Harper, Hazeltine, Heath, Hiester, William Jackson, Ebenezer Jackson, Janes, William C. Johnson, H. Johnson, Laporte, Lay, Lincoln, Loyall, Manning, Martindale, Marshall, McComas, McKennan, Mercer, Milligan, Miner, Parker, Patton, Phillips, Pickens, Pinckney, Pope, Potts, Ramsay, Reed, Robertson, Schenck, Schley, William B. Shepard, Augustine H. Shepperd, Slade, Sloane, Spangler, Steele, Wm. P. Taylor, Philemon Thomas, Tompkins, Trumbull, Tweedy, Vance, Vinton, Watmough, Wayne, White, Frederick Whittlesey, Wilde, Williams, Wise, Young—92.

The SPEAKER decided that the resolution was now brought before the House, the motion to reconsider the vote on a question of consideration being, in effect, a motion to consider.

After some conversation on the point of order, in which Messrs. SHEPPERD, MERCER, and BRIGGS, took part.

Mr. HARDIN moved to amend the resolution by adding the following: and that the committee be also directed to inquire at what age a judge is incompetent to service.

Mr. HARDIN said his object was to fix some age at which a judge should leave the bench, and not return to it. Whether that age should be sixty-five or seventy-five, was a question for inquiry. But he hoped that some such alteration would be made.

Mr. VANCE moved further to amend the resolution by instructing the committee to inquire into the expediency of a constitutional provision preventing the President of the United States from removing any person from office, without the concurrence of the Senate.

The hour having elapsed, Mr. PARKER moved that the House proceed to the orders of the day; which was agreed to, 91 to 62.

WASHINGTON'S PAPERS.

The following joint resolution was offered by Mr. EVERETT:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and he hereby is, authorized and directed to permit Jared Sparks to retain the papers of General Washington, now in his possession, in virtue of a contract and arrangement with the late Bushrod Washington, until he shall have completed the publication of the works of General Washington, on which he is now engaged, or as otherwise ordered by Congress; and that the Secretary of State be authorized and directed forthwith to pay to George C. Washington the balance of the money due to him, under the act approved on the 30th day of June, 1834, for the purchase of the books and papers of General Washington.

Mr. EVERETT desired to state that the papers of the late General Washington were in the possession of Mr. Sparks, under a contract made by him with the late Judge Bushrod Washington; and when purchased last year, by orders of Congress, they were purchased subject to that contract; which could not therefore be annulled. Mr. Sparks was desirous of retaining the papers until his work was completed. The Secretary of State was perfectly willing that he should do so, but he doubted his authority to pay over the balance of the money due for them, without having the sanction of Congress. The subject having his approbation, and not requiring any additional appropriation from Congress, he (Mr. E.) trusted that there would not be any objection to ordering the joint resolution to be engrossed for a third reading.

The resolution was accordingly ordered to be read a third time to-morrow.

ALEXANDRIA CANAL BILL.

The bill for the relief of the city of Alexandria (providing for a subscription of one thousand shares in the Alexandria canal at $100 a share) coming up for its third reading, it was read a third time, and the question being on its passage—

Mr. HARDIN, of Kentucky, observed that he had not seen any report accompanying this bill, which stated the probable cost of the aqueduct for which, in fact, the bill was intended to provide. He understood that Congress had, at a former session, appropriated $100,000 towards the construction of a canal and aqueduct, leading from out of the Chesapeake and Ohio canal, at Georgetown, to the city of Alexandria. He had also been informed that the corporation of Alexandria had given $50,000, and its citizens $80,000 in addi-

tion, towards the same object; making, in all, $230,000. All this money had been already expended; and he had been told by a very intelligent gentleman from that city, that Alexandria had put forth her utmost, and was incapable of doing any thing more. The city owed a debt in Holland of $250,000, for the payment of which a tax had been levied upon all real estate of the citizens, of 75 cents on $100, and that upon an assigned valuation double the amount of what the property would sell for—a most enormous burden indeed. Mr. H. mentioned these facts with a view to show that the finishing of this canal and aqueduct would fall upon Congress, and on Congress alone. The city was exhausted: it could give no more. Congress had given $100,000, and the question now arose whether they would give any more? They were asked for another $100,000. If this sum should now be given, would it be sufficient for the completion of the work? He had inquired of the gentleman from Alexandria, to whom he had already alluded, how wide the river was at the point where the aqueduct was to be constructed? He had stated it to be fifteen hundred feet. He had then asked how far they would have to go below the bed of the river before they reached the rock that was to be the foundation of the piers? And he had replied seventeen feet. How high the piers were to be raised above this? He answered thirty-three feet. Here, then, there was to be an aqueduct fifteen hundred feet long, resting on piers fifty feet in height, with stone arches of forty or fifty feet span; for, although he did not know what was the proposed plan of the aqueduct, he believed nothing but stone arches would do, and the span could not be greater than forty or fifty feet. The piers must sustain the enormous weight of these arches, and of all the superincumbent water in the aqueduct; they would of course have to be constructed of great strength and solidity. The sheet of water in the canal, he understood, would be five feet deep, and sixteen feet wide. The aqueduct, filled with water, was to sustain loaded vessels passing over it, at the rate of about two miles an hour. How much would such a structure cost? How much did gentlemen imagine would complete it? $100,000? That had been given already, and spent. $100,000 more? No. He would venture to affirm that a million of dollars would not finish it. He had read the estimates for a bridge, and that was to cost upwards of three millions. Did any gentleman believe that this aqueduct would not cost as much, if not more, each foot of running measure? How was it possible that 1,600 yards of bridge should cost three millions and upwards, and this aqueduct so little? There must be some great inaccuracy somewhere.

Congress was brought to this alternative, either to make this Alexandria canal, aqueduct and all, or to stop short now, and refuse to give another cent. He was for stopping. He did not believe in the policy of expending millions to construct a canal along the banks of the broad and beautiful Potomac, which presented a highway of God's own forming to all who wanted one. They were called upon to lay out the treasure of the United States to make a canal where God had already made one of the finest navigable rivers under the sun. They were told, indeed, that they must do this, or the city of Alexandria would have to go down. That might possibly be, to some extent, true. He should deeply regret such a result. No man could do otherwise. But, as a legislator on that floor, the question he must ask was, what interest the people of the United States had in the question whether Georgetown or Alexandria should get the commission on the sale of flour coming down the Potomac river? The question was one of very little concern to the people of this Union, of whatever consequence it might be to the merchants of Alexandria. The interest the people of the Union felt was in this, that the flour they raised should go to a good market: and provided that point was secured, it was not a cent's interest to them whether it was purchased by A or B.

They were told that the city of Alexandria was already in a state of decline. He knew the fact, and he regretted it. But what was the cause of it? The want of this aqueduct? No: the cause was to be found in the increase and growing prosperity of the city of Baltimore. That was the true cause, and no canal would cure it. It was the natural and necessary course of things. Large commercial cities always did and always must swallow up the little rivals in their vicinity. Gentlemen might as well expect their tobacco to grow beneath the shadow of a great overspreading oak tree, as expect such a place as Alexandria to flourish with a commercial capital so many times larger than its own in its immediate neighborhood. All the legislation in the power of Congress could not force such a state of things. Under such circumstances, Mr. H. declared his determination not to vote another cent for this canal. He did not believe that the aqueduct could be finished for less than a million of dollars. He had no confidence in estimates. All who had any experience could not but know that the end and object of most of the estimates exhibited before that House was to seduce the House into the commencement of the work proposed; and, once in, they were then told they must go through, or sacrifice all they had given.

Many of those he addressed were farmers, and probably not a few of them had been concerned at some period of their lives in mill-building; and he appealed to them to say whether they had ever seen a proposal for a mill in which the engineer failed to prove beforehand that there would be a fine head of water, and that the stream would never fail? He would advise gentlemen in such cases to judge for themselves. They would save money by it. Did not the stone bridge over the Big Youghiogeny cost $40,000? and did not the bridge over the Little Youghiogeny, a bridge with a single arch, cost $20,000? Would gentlemen shut their eyes to facts within their own knowledge? Congress had spent vast sums of money in constructing a canal through this city of Washington: and who, he asked, ever saw a solitary craft navigating it, save now and then a boat with wood, or a few fragments of rocks for completing the wall of the canal? and in the spring, once in a while a fish boat with oysters and white cat-fish? Yet it had cost the United States $100,000.

He hoped the House would come to a decision upon this bill without much debate. Would they go on voting hundreds of thousands and million upon million of the public money for this District, because Congress happened to meet here? Or would hey apply the public treasure to the support of the army, the navy, and the civil list? If they were to have a system of internal improvements, let it be a general system, in which all parts of the country were to share. A kindly shower of the public money would make agriculture smile in Kentucky or Tennessee as well as in the District of Columbia. Yet here they were spending millions; while there lay at this moment upon the Clerk's table bills appropriating enough of the public money, if the amount was counted down in bank bills or gold, to break it down. He trusted the bill would be promptly rejected.

Mr. CHINN said that he was unwilling at any time to ask the attention or to delay the action of the House; that after the discussion of this bill at the last session, he would cheerfully have forborne to do so now, but the remarks which had been made by the gentleman from Kentucky, [Mr. HARDIN,] the particular relation in which he (Mr. C.) stood to the bill, and the decided interest which he felt in its passage, required at least a brief statement of facts from him. He proposed no more

than such a statement, and a short review of some considerations which induced him to report the bill and to recommend its passage.

Mr. C. said that the gentleman from Kentucky had made a statement to the House, upon which his argument mainly rested, which statement was founded in an entire misapprehension of facts. He regretted that the gentleman had not received more accurate information, or that he had not personally inspected the work which was now in progress. He would take leave to put the gentleman right as to the facts, and to show that the progress already made in the execution of this improvement was such as to leave no reasonable doubt that the improvement could be made, and at an expense not greater than the estimates before him. The gentleman had told the House that the aqueduct, the great difficulty in this improvement, must be one thousand five hundred feet in length; that the span of the arches could not exceed fifty feet; and that from the immense weight to be borne by them they must be of enormous size, and almost incalculable strength. In each and every part of this statement the gentleman was in error. It was true that the river was one thousand five hundred feet wide, but it was equally true that, by the extension of the abutments on either side, the length of the aqueduct is reduced to little more than one thousand feet. Thus the gentleman has added nearly one third to its length. As to the arches and the number of piers required to sustain them, the truth was that the span, instead of being fifty, was a hundred feet and over; so that here the gentleman had doubled the number of piers. Nine piers only are proposed; and men of science and practical skill have recommended a less number.

The gentleman was equally wide of the fact in another element of his calculation. He had compared this aqueduct with the stone bridge once proposed to be thrown across the river opposite this city, and had taken as granted, and so stated, that the same weight must be imposed upon the different supports of the aqueduct as would have rested on those of the bridge; and from his comparisons he has drawn his conclusions as to the dimensions and strength of the piers, &c. But the gentleman had either forgotten, or had not informed himself, that the body of the aqueduct was not to be of stone, cemented, but of wood; that the weight upon the supports will be but the weight of this wooden trunk, and the volume of water which it held; and that no conclusion could be drawn from the comparison which had been made. The gentleman being under mistake in all of these points of fact, his argument drawn from them must fall; the elements of his calculation either do not exist at all, or, if they do, they are combined with so much of error as to destroy the force of the conclusions to which they lead.

Mr. C. said that it could not be necessary now for him to go into any general argument to prove that this improvement could be made; nor into any minuteness of calculation to show that the cost would not exceed the estimate. He would only state that the authority to sustain both of these positions was abundant, and was, to him at least, conclusive. Much was upon the desk before him, open to the examination of any gentleman who desired to look into it, and he would be pleased if they would do so. Among others, were the reports of those who were now superintending the work, and also a recent report of a distinguished engineer, wholly unconnected with it, who has carefully examined the work already done. They all concurred in showing that the construction had thus far been conducted judiciously, and with economy, and that the casualties incident to such works had been to a great extent avoided. He said that he was aware that every thing in the shape of an estimate was received by the House, and particularly by a certain class of gentlemen, with great doubt and suspicion. It was right, perhaps, that it should be so. He was himself one of that class; and did the probability of the success of the work rest upon opinion only, and the amount required to make it upon estimates, he would, perhaps, be as distrustful of both as any other member.

But there were other and surer grounds on which to rely. The work was begun; great progress was made in it; the most difficult, and hazardous, and expensive portion of the enterprise had been encountered, in some places had been completed, and in all there was confident promise of success. The largest abutment was nearly completed. Two coffer-dams were already finished in the deepest part of the river, and in one of them the masonry of the pier was progressing. The cost of each was before him, and from this the cost of the whole number is reasonably and fairly calculated. But he would not delay the House longer upon this point; he hoped that nothing now need be said to show that the improvement was practicable, and was in such a course of execution as to warrant the expectation that it might be completed in a reasonable time. The true question was, whether the House would aid in finishing this improvement; and on this point he begged leave to present to them a few considerations in behalf of a people who seldom appeared before them soliciting aid in any shape.

Mr. C. said that, when Alexandria and the district on the Virginia shore was ceded to the United States, that city was prosperous and flourishing, and her promise was bright. Commanding a large share of the trade of the interior, through her roads and the Potomac, she would, in all human probability, have continued so, but for some causes to which he would advert. She enjoyed at least an equal competition for the trade which descended the Potomac to the year 1805. But the very first act of this Government, which operated upon the navigation of the river, inflicted a deep and permanent injury on the citizens of that town. Prior to that period, the boats which descended the river reached the harbor at Alexandria without danger or difficulty. They were enabled to do so by availing themselves of that channel of the river which, passing close under the elevated land on the Virginia side, afforded a comparatively safe and direct course, measurably protected from the exposure of the more open part of the river. In that year, Congress passed an act authorizing the corporation of Georgetown, with a view to deepen the channel on this side, to throw a dam from the Virginia shore to Mason's island, thereby stopping up the channel which had been before used by boats coming down the river. Mr. C. said that the effect upon Alexandria was obvious and immediate; the blow was struck, and the wound was deep, if not incurable. Attempts to navigate the open river in these boats were made, but with the imminent hazard of property and life; instances of the loss of both occurred, and this trade ceased. Congress became convinced of the extent of the evil which their legislation had unintentionally produced; and, by a subsequent act, granted to the people of that city the privilege, if privilege it could be called, of making a canal around this dam. This act was limited by a condition as to time; the war prevented the commencement of the work, and the act expired by its own limitation. Thus, he said, a deep injury had been visited, by the legislation of Congress, upon an unoffending people. He did not propose to compensate them for it. He did not hold that there was any obligation upon us to do so; but he did think that it came in aid of other considerations, and that it should be mentioned and remembered, because it constituted an item in accounting for the decay and ruin which threatened the people of that city, and which they were now seeking to avert.

Mr. C. said there was another consideration, which he would take leave to bring to the notice of the House, and which he thought should have some influence upon its decision. He said that the improvement of the navigation of the Potomac had been a subject of early and continued and anxious interest, to those particularly who were connected with the trade upon that river; and when the present improvement upon it (the Chesapeake and Ohio canal) was proposed, it was not surprising that the people of Alexandria, occupying the favorable position which they did, should have participated deeply in the feeling and the hopes under which that work was commenced; nor can common charity now rebuke them for then bringing all their means to the aid of this great work. They did do this; they subscribed largely, liberally; even burdened themselves with debts. But, sir, (said Mr. C.,) it would almost seem that every influence of this Government upon that city had been withering and blighting. For I will proceed to show how, by a single change in the plan of this improvement, which change was made, and could have been made only by the prevailing influence of this Government, the hopes of that city were almost wholly destroyed. The subscription was made with the certain and positive understanding that the canal was to stop at a point above or about Georgetown. At this point, then, the intended termination of canal navigation, all interests were to meet in fair competition for the trade. It was obvious that all the improvements which Alexandria had made upon roads leading to the interior would be abandoned; her natural advantages by the river had been obstructed; and this was the only alternative to meet the trade at the end of the canal. But for reasons into which Mr. C. did not propose to inquire, because it was immaterial to Alexandria whether they were proper or not, the company determined to extend the canal to the basin in Washington. This was done, and could only have been done, by the vote given by the representative of the stock of this Government. Thus the subscription of Alexandria not only failed to bring in return the expected benefits, but was made to aid in removing from her even the advantages which she before enjoyed. Those who made this change saw its operation. It was manifest that all direct interest in the canal was cut off from Alexandria. This, sir, was another visitation upon them, and, to remedy its effects, another privilege was granted. They were permitted by those who made the change to connect a canal of their own, to be made by their own means, to the Chesapeake and Ohio canal, by the aqueduct; it was agreed to make the abutment out of the funds of the main improvement, and they were favorably recommended to the notice of Congress.

Mr. C. said he would not detain the House to show the extent of injury resulting from this change; he would only say that, in the single article of flour, the trade of Alexandria had diminished one half. The returns were before him. Mr. C. said he would repeat that he would not be understood to assert that there was any positive obligation upon Government to compensate for injuries of this character. The truth was, that they ought never to be inflicted, except under the most controlling necessity; but, when they are, they at least entitle those who bear them to the kinder notice of a parental Government.

Mr. C. said he would state a fact which was not perhaps generally known to the House, and he was the more induced to do so, because the complaints of appropriations for the District were long and loud, and, in his opinion, often unjust. He said that when Virginia ceded Alexandria, she also paid out of her own treasury to the United States $120,000. This donation was large, considering the time at which it was made, and the circumstances of the party who made it. He did not believe it was so intended, nor would he claim for Alexandria the exclusive benefit of this donation; but he did think that she was at least entitled to a large participation in it.

Mr. C. regretted that the gentleman from Kentucky, [Mr. HARDIN,] in discussing this bill, had felt it his duty to array before the House, and to denounce the extravagance and waste of expenditure, as he considers it, upon this District. He believed, he knew, that there had been extravagant expenditure: but he also knew that it was upon works commenced and prosecuted by Congress itself. The gentleman surely did not intend to charge to the District the various appropriations for enclosing your public grounds, planting and adorning your squares, and completing your public buildings; and, if he did not, where was the extravagance of appropriation? But the inquiry is not whether you have done wrong, but whether you will do what is right? If that were the inquiry, what have been your appropriations to Alexandria? One to build a jail, and one to aid in the work which is the subject of discussion. Mr. C. hoped that the merits of this bill would not be affected by any such array of prejudice.

Mr. C. said he would venture to detain the House by recalling its attention to the proper question before it, the propriety of granting the aid which the bill proposes. With this aid, he believed that the work could and would be successfully prosecuted; without it, all which has been done may be lost, and the improvement abandoned. Ought it to be abandoned? The interest of Alexandria in its completion was palpable, obvious to all. Her destiny hung upon it. The Government was interested in it; because it not only will have a free and safe means of transporting property, and which, upon this improvement, will not be inconsiderable, but it will have an exhaustless water power at a point where it can be made eminently useful.

But, sir, (said Mr. C.,) the whole extent of country interested in the Chesapeake and Ohio canal, rich as that country is in every resource, was also interested in this improvement. Alexandria was the proper head of ship navigation on the Potomac; the navigation above was not good, and would be worse. Alexandria being at the head of ship navigation, was therefore the proper termination of canal navigation. If it be a truism that that is the best improvement upon which trade can be carried on with least expense, greatest safety, and most expedition, it is equally clear that that is the most perfect canal navigation which brings the canal boat to the sea vessel. This improvement proposes to attain both of these objects. The produce coming down the Chesapeake and Ohio canal will reach Alexandria without being subject to the delays and expense of transhipment: and from that canal to Alexandria there would not be a single lock, or any other cause for delay or expense. Mr. C. said he would not detain the House longer; he had given this outline of his views; the interest which he felt in the bill would not suffer him to do less. The people of Alexandria had seen their prospects destroyed, their efforts paralyzed; but they had been patient and untiring in exertion. This was perhaps their last struggle; upon it might hang the issues of life and of death.

Mr. VANDERPOEL moved to postpone the further consideration of the bill till Monday next.

Mr. CHINN hoped not, since it had been already twice postponed, and he hoped the House would now act upon it.

Mr. VANDERPOEL said, if his memory served him aright, the same bill had undergone considerable discussion towards the close of the preceding session. The bill was an important one, involving a large appropriation, and though he should be glad to gratify the gentleman from Virginia, yet, under the circumstances of the case, public duty compelled him to press his motion.

The motion to postpone was then put, and negatived.

Mr. MERCER said he had listened to the able, lucid, and, to him, convincing argument of his honorable colleague, [Mr. CHINN,] with great satisfaction. Mr. M. entered into an elaborate statement of facts respecting the Potomac bridge, and the relative costs of that and the aqueducts, the former of which would not amount, by the new plan, to more than $250,000. The city of Alexandria had some claims upon the liberality of Congress, for she contributed her full quota of taxes during the war, and that without representation, contrary to the principle of our Government, and yet had received nothing, or but little in return. Alexandria had suffered greatly by the cession, and had fallen from her former condition. The time was when one-twentieth part of the exports of the whole United States, was cleared from the port of Alexandria alone. The first bank established south of the Potomac was there, and it was within his recollection that the value of that stock was doubled in a short time. In the days of the Father of his Country, the collectorship of that port was one of the best gifts in the hands of the general Government, and one of the heroes of the Revolution had been rewarded with it. All this was matter of history; that Mr. M. could prove.

Mr. M. also advocated the appropriation, on the ground of the increased facility that would thereby be afforded, whether in peace or war, by the transmission of important despatches and expresses, and said that a delay of two days on the river had not unfrequently occurred. This also applied to the march of armies, in case of war or invasion. With regard to the permanency of the work, every assurance was given, grounded on the most conclusive testimony and reasoning, that if the aqueduct should be constructed on the plan proposed, it would be indestructible. This was all that was asked for. The town of Alexandria did not ask Congress to complete the canal; they had themselves paid every instalment called for, which was more than the other cities had done.

It had been said that the plan was erroneous, because it proposed the construction of a canal on nearly a parallel line with the river; but if similar plans were to be referred to, Young's Tour and the most scientific works of the most celebrated engineers of Europe, would show that a river, from the obstructions it presented, and the continual variations of the wind, had been abandoned. A reference to the great canal of the Duke of Bridgewater in Lancashire, in England, would testify this fact. Would any man believe it possible for a boat to be managed through the floods of the Potomac, on a surface of a mile in width, in all seasons of the year? It could not. Yet this could be done on a canal. To reject this bill would be little short of laying an edict upon Alexandria; and by whom? By that body from whom alone it could expect relief.

After some further remarks, and sundry details on the importance of the proposed measure, Mr. M. concluded by urging upon the House not to reject the bill.

Mr. MANN, of New York, alluded to the fact of this having been before the House at the last session, advocated by the same gentleman, and on the same principles as now. Mr. M. replied at length to the arguments of Mr. CHINN. The gentleman from Virginia had the happy faculty of so illustrating every subject on which he turned his attention as to render it enchanting, but he hoped the House would not be led away. The gentleman had urged many beautiful arguments, but Mr. M. must be excused for saying that they were of a character that ought not to weigh in matters of the kind now under deliberation. He had heard the gentleman, as he always did, with peculiar pleasure, because he was always clear, distinct, and lucid in his propositions, and he was sorry that, on this occasion, he had not chosen a subject more worthy of his advocacy. What was the nature of this bill? It proposed that Congress should subscribe for one thousand shares, at a hundred dollars per share, in the stock of the Alexandria Canal Company. Now, Mr. M. would not for a moment question the principle that Congress had exclusive legislation in all cases whatsoever; but he begged to inquire where was the power, or upon what authority could Congress appropriate money for charitable purposes? for the measure proposed could be designated as nothing less than one of charity. If Congress could do so in one case, it could in another, and the whole revenue of the country might fall under the principle. They had been told by the honorable chairman of the committee [Mr. CHINN] that the legislation of Congress had been extremely injurious and detrimental to the city of Alexandria; but surely it was to be presumed that what had been done had been done by the knowledge and consent of the inhabitants, if not at their request; and why should this charge be made upon Congress?

[Mr. MERCER explained, as we understood, that it was within his knowledge that a large majority were opposed to the measures referred to.]

Mr. MANN proceeded. The gentleman had stated that if this work were completed, two hundred thousand barrels of flour would pass through the city of Georgetown to Alexandria by way of this canal. But, Mr. M. would ask, what would this amount to? Why, the profit on its carriage would not even pay the persons necessarily employed in taking care of the canal. He had seen too much of such works to put any confidence in the reports of engineers. They had turned out to be totally fallacious; he could cite a greater number of cases than the time would allow of. He would ask what assurance we had that the persons who may be employed would not come here and ask you to pay them extra allowances, in consequence of bad contracts? The claims for special allowance on contracts on the New York canals amount to more than $7,000,000. He could see no good and substantial reasons why we should be called on to legislate on this floor for the benefit of Alexandria. The expense that had been paid by the United States for criminal courts had been very great.

Mr. M. said, since he had been here, we had given for the District of Columbia something like $3,000,000. Then with what justice could it be said that the District had suffered by the illiberality of Congress? If this bill could be passed in this House, you might expect that a bill would follow in a very short time for an appropriation, not only to pay the interest on the debt of the city of Washington, but you would soon be asked to give another million for their support.

After some further remarks Mr. M. concluded by saying that every view he had been able to take of the subject convinced him that this bill ought not to pass.

Mr. CHILTON said he inclined to the opinion that this bill ought not to pass. He had no scruples as to the constitutional power of Congress to make appropriations for improving the country where they were necessary, but this he thought would be a useless waste of the public money. Here was one of the finest streams in the world, running almost straight from Georgetown to Alexandria, possessing all the advantages for navigation that could be desired, and we were called on to construct a canal alongside of it! Could any man acquit himself to his constituents, or to his own conscience, if he should vote to make a canal parallel with this beautiful stream? Besides, there were works which had claims a hundred times as strong on the Government, the funds to complete which were insufficient; and if they passed the bill now under consideration, with what justice could they reject the others? Nor did the pres-

ent work present any probable advantages which could authorize the appropriation.

After some further observations, Mr. C. declared his determination to vote against the bill, and he trusted it would be rejected.

The question on the passage of the bill was then taken by yeas and nays, and decided in the negative.

YEAS—Messrs. John Quincy Adams, Heman Allen, John J. Allen, Anthony, Archer, Banks, Bates, Baylies, Beale, Binney, Briggs, Bull, Cage, Chambers, Chinn, William Clark, Corwin, Coulter, Crane, Darlington, Denny, Evans, Edward Everett, Ewing, Galbraith, Garland, Gholson, Gorham, Grennell, Hiland Hall, Hard, Hiester, William Jackson, Ebenezer, Jackson, William C. Johnson, Richard M. Johnson, Henry Johnson, King, Kinnard, Lane, Laporte, Lincoln, Love, Lucas, Martindale, McKennan, McKinley, Mercer, Milligan, Miner, Patton, Dutee J. Pearce, Phillips, Pope, Potts, Ramsay, Reed, Rencher, William B. Shepard, Sloane, Spangler, Stewart, Francis Thomas, Philemon Thomas, Trumbull, Vance, Vinton, Watmough, Wayne, Frederick Whittlesey, Wise, Young—72.

NAYS—Messrs. John Adams, Chilton Allan, William Allen, Bean, Beaumont, Blair, Bockee, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carr, Casey, Chaney, Chilton, Claiborne, Samuel Clark, Clay, Clowney, Coffee, Cramer, Amos Davis, Davenport, Day, Deberry, Dickson, Dickerson, Dickinson, Dunlap, Felder, Ferris, Forester, Foster, Fowler, Philo C. Fuller, Wm. K. Fuller, Fulton, Gamble, Gillet, Gilmer, Gordon, Graham, Grayson, Griffin, Joseph Hall, Thomas H. Hall, Halsey, Hamer, Hardin, Joseph M. Harper, James Harper, Harrison, Hathaway, Hazeltine, Heath, Henderson, Howell, Huntington, Inge, Janes, Jarvis, Noadiah Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kilgore, Lansing, Lay, Luke Lea, Thomas Lee, Letcher, Lewis, Loyall, Lyon, Lytle, Abijah Mann, Joel K. Mann, Manning, Marshall, Mardis, Moses Mason, May, McCarty, McIntire, McKay, McLene, McVean, Robert Mitchell, Moore, Morgan, Muhlenberg, Murphy, Parks, Parker, Patterson, Peyton, Franklin Pierce, Pierson, Pinckney, Polk, Reynolds, Robertson, Schenck, Schley, Shinn, Smith, Standefer, Steele, William P. Taylor, Thomson, Turner, Tweedy, Vanderpoel, Van Houten, Wagener, Wardwell, Webster, Whallon, White, Williams—123.

The House then adjourned.

FRIDAY, JANUARY 9.

IMPROVEMENT OF THE WABASH.

Mr. CASEY, of Illinois, asked leave to introduce the report of the engineer appointed by the commissioners of the fund appropriated by the States of Illinois and Indiana for the improvement of the navigation of the Wabash river.

On leave being granted, Mr. C. said it would be recollected by the House that on yesterday the bill which had passed the Senate making an appropriation for the improvement of the navigation of the Wabash river was referred to the Committee on Roads and Canals. By the last mail from the West, through the politeness of a friend, he had received the report of the engineer appointed by the commissioners of the fund appropriated by the States of Illinois and Indiana for the improvement of the navigation of the Wabash. It contained some valuable information in relation to the proposed improvement; and as it was desirable that the national Legislature should be in possession of every possible information on this subject, he thought it his duty to introduce this report. It was a subject of deep and abiding interest to the people of that section of the country, and he did hope that it would receive the favor and consideration of Congress. Mr. C. concluded by a motion to refer the report to the Committee on Roads and Canals, and that it be printed; which was agreed to.

INTERNAL IMPROVEMENT.

The House resumed the consideration of the following resolution, heretofore submitted by Mr. CHILTON:

"*Resolved*, That the Committee on Roads and Canals be instructed to inquire into the subject, and report their opinion to this House, of the most equal and just mode of applying the revenues of the country to such works of public improvement, within the respective States of this Union, as may be necessary for the facilitating of commerce with foreign nations, and among the several States. And that they moreover report their opinion of the best and most practicable mode of ascertaining and determining the nationality and importance of such improvements as may be proposed within the said several States."

Mr. CHILTON said, if it suited the pleasure of the House to permit him to close the remarks which he intended to make on this subject to-day, he would now proceed; but, if otherwise, he would defer his remarks, as there wanted but two minutes of the expiration of the hour.

On motion of Mr. E. WHITTLESEY, the House passed to the orders of the day.

WASHINGTON'S PAPERS.

The following joint resolution, yesterday offered by Mr. E. EVERETT, was read a third time:

"*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of State be, and he hereby is, authorized and directed to permit Jared Sparks to retain the papers of General Washington, now in his possession, in virtue of a contract and agreement with the late Bushrod Washington, until he shall have completed the publication of the works of General Washington, on which he is now engaged, or until otherwise ordered by Congress; and that the Secretary of State be authorized and directed forthwith to pay to George C. Washington the balance of the money due to him under the act approved on the 30th day of June, 1834, for the purchase of the books and papers of General Washington."

Mr. GILLET begged to inquire of the gentleman who reported the resolution [Mr. E. EVERETT] whether any intimation was given last year, when the arrangement was made for the purchase of these papers, that there was any lien upon them, or any contract by which they could be withheld from the hands of Government as soon as the appropriation was made?

Mr. E. EVERETT replied that the whole circumstances and history of the case, and the precise condition and situation of the papers, had been fully spread before the House in the documents presented last year—the contents of which he presumed to be within the knowledge of most gentlemen present.

Mr. GILLET had perused those documents and the report referred to by the gentleman; but he had no recollection of any thing in the nature of a lien upon those papers. The question then was confined to their value and historical and documentary importance, and the purchase was regarded, by himself at least, as unconditional, and without any contingencies. Not a word was said about their being mortgaged, and Mr. Sparks's communication was confined to the subject of their value. Mr. G. said he considered it wrong that any portion of the money should have been paid until the Government had been in possession of all the papers. He believed Mr. Sparks to be as honorable a man as lived; but his demise, or many other circumstances, might intervene to jeopard their security. He was decidedly of opinion that the resolution ought not to pass.

Mr. E. EVERETT explained that more than one half of the papers were already in the possession of the Government, and that the loan of the residue was asked for only till the completion of the work in which Mr. Sparks was engaged, which would, in all probability, not extend beyond another year—three fourths of it being finished. Mr. E. could see no objection to the passage of the resolution, for the papers were as safe in Mr. Sparks's hands as they would be in the possession of their intended depositary. All parties desired it: the Secretary of State, Mr. Washington, Mr. Sparks, and, he hoped, a majority of the House.

Mr. PARKER agreed with the gentleman from New York, [Mr. GILLET,] and with him was ignorant of the authority of Mr. Sparks to detain these papers. They ought now to be in their proper custody, and not at Boston, or any other part of the United States. All that ought now to be asked by the gentleman should be, that he might be permitted at Washington to make such an examination of, and take such extracts from, them as might be deemed necessary for the completion of his work. Mr. P. raised this objection last year, that the money should not be paid till the papers had been delivered, and he trusted that the balance would be withheld till that had been done.

Mr. VANDERPOEL had voted last session in favor of the appropriation for the purchase of these papers, and he did so, as he believed the majority did, in the understanding that they would come immediately into the hands of the purchasers. He had no idea that there existed a previous contract by which they could be detained. They were then told that the documents relative to revolutionary claims were alone worth double the money.

Mr. E. EVERETT explained, that all the papers on that subject were in the custody of the Department, and indeed were in the District of Columbia at the time the purchase was made.

Mr. VANDERPOEL was not previously aware of that; but still it appeared to him that the House ought not to pay away the money asked for without a full equivalent. He had been in favor of the appropriation first as relics of the great Father of his Country, and then because assurances were given that their possession would be the means of effecting a great saving of the public money. For these reasons, and others that might be urged, Mr. V. was unwilling to vote for the payment of the balance of the appropriation until the papers had been delivered up.

Mr. MERCER called the attention of the House to the fact that Mr. Sparks had been engaged by the Government in the compilation of the Diplomatic History of the United States, and surely no one would conceive these papers to be insecure in such hands.

Mr. E. EVERETT would add, that Mr. S. was not only employed by the Government to prepare this compilation, but he had been permitted to take out from the Department of State all the requisite revolutionary documents, and that he had arranged, indexed, and put them in regular order. All that was asked the House, was to grant the same permission that had been given by the late Judge Washington, whose reverence for his great relative would have prevented his placing them where their security would be hazarded.

Mr. SEABORN JONES begged to ask the gentleman from Massachusetts what amount of money had been already paid?

Mr. E. EVERETT said $20,000 out of $25,000, the sum agreed upon.

Mr. SEABORN JONES thought enough had been done, and he should be unwilling to pay any further sum until the papers had been delivered. There had been considerable discussion on this subject last year. The possessors of the papers first asked $20,000, and as soon as Congress agreed to give that sum, and a bill had been reported for the purpose, they then asked $25,000, and now we find that there is some contingency, or lien, by which they are withheld, and will be withheld, no one knew how long, even after the whole sum should be paid. Mr. J. said he felt bound to vote against the resolution.

After a few further remarks from Mr. E. EVERETT, Mr. VINTON, and Mr. PARKER, who read the act of last session,

Mr. McVEAN said he could not see what the House had to do with Mr. Sparks. The papers had been purchased of Judge Bushrod Washington, and to him they had to look for them; for there was no reservation in the contract that we were to receive them of Mr. Sparks. The question was, if they should pay the residue of the money until the papers were delivered up, and Mr. McV. was of opinion they ought not, and should vote accordingly.

Mr. MINER and Mr. BATES briefly supported the resolution.

Mr. CLAYTON said, if these papers were worth any thing to the United States, it was plain they had the right to them. From the contract made by the late Judge Bushrod Washington with Mr. Sparks, this gentleman might retain them as long as he pleased, for it was left entirely to himself to say when he had done with them. He might give them up whenever he thought proper; for Congress had no power to take them out of his hands, he having, by agreement, a prior claim to their possession. Mr. C. expressed his intention of voting against the passage of the resolution.

The yeas and nays having been ordered, the question was then taken, and decided in the negative: Yeas 87, nays 101.

So the resolution was rejected.

ALEXANDRIA CANAL.

Mr. BOULDIN said that he had yesterday voted under some misapprehension on the bill for the relief of the city of Alexandria. He was, like many of his constituents and colleagues, opposed, from principle, to the system of internal improvement, as a system; but if national legislation had inflicted local injury, he would be one of the first to repair it. Such an injury, he was convinced, had been inflicted by the obstructions of the channel of the Potomac. He moved to reconsider the vote of yesterday, and that it be postponed to the first Monday in February next.

The question being taken on the motion to postpone, it was decided in the negative: Ayes 75, noes 76.

Mr. MERCER said, to avoid a long discussion on this subject, and at the same time to give the House an opportunity for its mature consideration, he would propose that it be postponed to a fortnight from next Monday.

Mr. GILLET moved that it be indefinitely postponed.

Mr. WHITTLESEY, of Ohio, asked if this question did not require a vote of two-thirds of the House to decide upon it, according to the rules.

The CHAIR explained, and, without taking the question on the subject of reconsideration, the House passed to the special order of the day.

CAPTAIN ISAAC HULL.

The House then resumed the consideration of the bill for the relief of Commodore Isaac Hull, and the amendment of the Committee of the Whole, striking out allowances for compensation as navy agent.

Mr. PEARCE, of Rhode Island, was in favor of the amendment, and in opposition to the allowances claimed.

Mr. BURGES followed in support of the claim.

Mr. PARKER opposed it, and

Mr. BINNEY stated that he wished to address a few remarks to the House on this subject, and was prepared to proceed, if it was the general wish longer to continue the sitting; but as the hour was somewhat advanced, to try the sense of the House, he would move an adjournment.

The motion was agreed to, and

The House adjourned.

SATURDAY, JANUARY 10.

PAY OF NAVAL OFFICERS.

Mr. WATMOUGH, on leave, moved to print the bill to regulate the pay of the officers of the navy, together with the several pending amendments.

Mr. GILLET moved to include an amendment which he had offered in committee, and which he contemplated submitting in the House.

Mr. WATMOUGH acquiesced, when the motion, as modified, was agreed to.

UNITED STATES BANK NOTES.

Mr. POLK, from the Committee of Ways and Means, reported the following bill:

A BILL to suspend, conditionally, the receipt of the bills and notes of the Bank of the United States and its branches, in payment of debts to the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passing of this act, the bills or notes of the Bank of the United States made payable, or which shall have become payable on demand, shall not be receivable in any payment to the United States: *Provided,* That, if the said Bank of the United States shall pay into the treasury the full amount of dividends of property on the capital stock of said bank, owned by the United States, heretofore withheld from the treasury by said bank, it shall, upon such payment into the treasury, be the duty of the Secretary of the Treasury to authorize the receipt of such bills or notes in payments to the United States for a period extending to the expiration of the charter of said bank on the 3d day of March, in the year 1836.

The bill was read twice, and committed to a Committee of the Whole on the state of the Union.

Mr. POLK, on leave, moved to print a statement prepared by the Secretary of the Treasury, of the rate of domestic exchange, as charged by the Bank of the United States and its branches, and the different local banks in the Union.

Mr. WHITE, of New York, moved to print 5,000 extra copies of the statements referred to.

The motion requiring the unanimous consent of the House, and Mr. BRIGGS objecting—

Mr. WHITE moved to suspend the rule, in order to enable him to submit the motion; which was agreed to.

Mr. W. then submitted the motion indicated.

Mr. McKINLEY moved to amend the motion by directing that 10,000 extra copies be printed, instead of 5,000; which was agreed to; and, thus amended, the proposition to print was agreed to.

Mr. POLK gave notice that he would move, on Monday next, to proceed to the consideration of several appropriation bills—the navy, army, and pension bills; and, if possible, some others.

Mr. P. also stated that he was instructed by the Committee of Ways and Means to give notice that, on as early a day as practicable, a motion would be made to take up the several bills relating to the Bank of the United States. The Committee had hitherto abstained from pressing the consideration of the bills to which he had referred, from a disinclination to interfere with the necessary business of the House. He repeated that the bills would be called up at the earliest possible period.

INTERNAL IMPROVEMENT.

The House resumed the consideration of the resolution submitted on Monday last by Mr. CHILTON.

Mr. CHILTON resumed his remarks on the subject of the resolution, and, after speaking about half an hour, gave way to Mr. E. WHITTLESEY, on whose motion the House proceeded to the order of the day.

CLAIM OF CAPTAIN HULL.

The House then resumed the consideration of the special order of the day, being the bill for the relief of Commodore Isaac Hull, and the amendment agreed to in Committee of the Whole, to strike out that part of the bill providing for the payment of 6,500 dollars for extra services as navy agent at the navy yard at Washington while commanding the same.

Mr. BINNEY took the floor in opposition to the amendment, and in support of the claim. He contended that the duties of navy agent had been performed by Commodore Hull, and a spirit of equity should impel the House to requite the services so rendered, by a fair compensation. He continued to advocate the claim in an argument of some length—going into a minute history of the origin of the office of navy agent, and the duties it has involved, at various periods, from the earliest era of the Government. He also examined the law of 1804, which provides for the government of the navy yard at Washington. That law declares that "the commandant of the yard shall have the superintendence and care of the same, shall perform the duties of navy agent, and receive the pay of a captain commanding a squadron," &c. This law of 1804, he contended, should be construed according to the true intent and meaning of the lawgiver. It was designed to apply to the circumstances and exigencies of the times in which it was enacted, some thirty years ago. It had been tacitly considered inoperative up to 1829, when a new law was enacted. It was unjust, he conceived, to revive it now, under circumstances widely variant from those under which it was made, and meant to apply. Mr. B. continued his argument for more than an hour, and was followed by

Mr. McKINLEY, who opposed the claim. He thought there would be great danger in admitting the construction of the law contended for by the gentleman from Pennsylvania, [Mr. BINNEY,] as opening the door to favoritism and corruption. Mr. McK. hoped the amendment of the Committee of the Whole would prevail.

Mr. HARDIN followed on the same side of the question. The language of the law was clear and definite, and could not be construed otherwise than by its strict letter. In the course of his remarks, Mr. H. produced a letter from the Fourth Auditor of the Treasury, stating that Commodore Hull, prior to his entering on the duties of his office, was explicitly informed of the nature of all the duties required of him; and that, at his own instance, he was allowed an extra clerk, of his own selection, at a salary of $1,000, which was afterwards raised to $1,300. Mr. H. said this claim was but an entering wedge, and would form a precedent of the most dangerous character. It would be far better to present Commodore Hull one hundred thousand dollars, as a gratuity, than to pass this bill.

Mr. REED again addressed the House in favor of retaining this claim in the bill, and the question on the amendment of the Committee of the Whole, to strike out

the section, was then taken by yeas and nays, and decided in the affirmative, as follows:

YEAS—Messrs. John Adams, William Allen, Anthony, Bean, Beaty, Beaumont, Blair, Bockee, Bouldin, Brown, Bull, Burns, Bynum, Cambreleng, Campbell, Carmichael, Carr, Casey, Chaney, Chilton, Chinn, Claiborne, Samuel Clark, Wm. Clark, Clay, Clowney, Coffee, Cramer, A. Davis, Davenport, Day, Deberry, Dickerson, Dickinson, Dunlap, Fillmore, Forester, Fowler, Philo C. Fuller, Wm. K. Fuller, Galbraith, Gamble, Gillet, Gilmer, Gordon, Graham, Grayson, Griffin, Joseph Hall, Thomas H. Hall, Halsey, Hamer, Hardin, Joseph M. Harper, Hathaway, Hawkins, Hawes, Heath, Hiester, Howell, Hubbard, Inge, Wm. Jackson, Janes, Jarvis, Noadiah Johnson, S. Jones, B. Jones, Kavanagh, Kilgore, Kinnard, Lansing, Laporte, Luke Lea, Thomas Lee, Love, Loyall, Lytle, Abijah Mann, Joel K. Mann, John Y. Mason, M. Mason, May, McComas, McIntire, McKay, McKinley, McLene, McVean, Miller, Miner, R. Mitchell, Moore, Morgan, Muhlenberg, Murphy, Osgood, Parks, Parker, Patton, Patterson, Dutee J. Pearce, Peyton, F. Pierce, Pinckney, Plummer, Polk, Pope, Ramsay, Reynolds, Robertson, Schenck, Schley, Augustine H. Shepperd, Shinn, Smith, Standefer, Stoddert, W. Taylor, William P. Taylor, Francis Thomas, Thomson, Turner, Turrill, Vance, Vanderpoel, Wagener, Wardwell—128.

NAYS—Messrs. John Quincy Adams, Heman Allen, John J. Allen, Archer, Banks, Barber, Bates, Baylies, Binney, Briggs, Burges, Cage, Clayton, Crane, Darlington, Denny, Dickson, Evans, Edward Everett, H. Everett, Ewing, Ferris, Garland, Gorham, H. Hall, James Harper, Harrison, Hazeltine, Henderson, Huntington, Ebenezer Jackson, R. M. Johnson, Henry Johnson, King, Lane, Lay, Lincoln, Manning, Marshall, McKennan, McKim, Mercer, Milligan, Phillips, Potts, Reed, Rencher, Slade, Spangler, Trumbull, Tweedy, Vinton, Ward, Watmough, Wayne, White, Elisha Whittlesey, Wilde, Williams, Wise, Young—61.

So the claim was rejected. The bill was then ordered to be engrossed for a third reading on Monday next, as amended, and then

The House adjourned.

MONDAY, JANUARY 12.

CAPTAIN NATHAN HALE.

Among the petitions offered to-day,

Mr. YOUNG presented a memorial for the erection of a monument to the memory of Captain Nathan Hale.

Mr. Y. observed that the memorial was from the inhabitants of the town of Coventry, in Connecticut, the birthplace of Captain Nathan Hale. He presumed the mere mention of the name would bring to mind the prominent event in his history, that which terminated his career, and signally marked him both a victim and martyr in the cause of our independence. It will be recollected that his character, his services, and his fate, bear a striking resemblance to those of the lamented Major Andre. Both were young and highly accomplished officers—brave, chivalrous, and enthusiastic for honor and the glory of their respective countries: both were selected by their respective commanders to discharge a service most difficult and hazardous, and most important to the armies and nations to which they belonged; both, with address, had nearly accomplished their objects, and nearly reached the goal of safety, when they were recognised, arrested, and executed as spies. Widely different, however, has been the regard which has been paid to their memories and manes.

The character of Andre is renowned throughout the civilized world, and his name become almost a symbol of honor and sympathy; while the name of Hale is almost forgotten even by his own countrymen. And while poets and historians, even of our country, seem to vie with each other in celebrating the virtues and untimely end of the British Andre, the name of the American Andre seems only to be brought forward to show the connecting links and dependency of events in the history of his times. While pilgrimages are made to the spot where Andre met his fate, and to the grave where his ashes repose, and a proud monument to his memory expresses the gratitude of his country, not one stone has been laid upon another to tell where Nathan Hale was born, or where he died, or where his body sleeps, or to signify for what country he laid down his life, lamenting that he had not another life to lay down for it.

The neglect and forgetfulness of his countrymen to the worth and memory of Captain Hale, and enhanced by this strong contrast continually before them and the world, have been deeply felt by his relatives. But they do not petition here. The inhabitants of his native town, by their memorial, suggest that some national recognition of his services, character, and fate, is due to his memory, and the honor of his country; and pray that, as the place of his interment is not known, some suitable monument may be erected, in the name of the nation, in his native town, in the burial place of his ancestors.

MINT OF THE UNITED STATES.

The SPEAKER laid before the House a message from the President of the United States, transmitting a report from the director of the mint, of the operations of that establishment for the year 1834; which, on motion of Mr. POLK, was laid on the table and ordered to be printed.

Mr. POLK remarked that the operations of the mint had greatly increased during the last year, and he thought it desirable that an extra number of copies of the report of the director should be printed. He accordingly moved to print 5,000 additional copies; which was agreed to.

ALEXANDRIA CANAL.

The motion to reconsider the vote rejecting the bill for the benefit of the city of Alexandria was taken up, and, on motion of Mr. MERCER, its consideration was postponed to this day fortnight.

APPROPRIATION BILLS.

Mr. POLK moved to postpone the special orders of the day, in order to take up, in Committee of the Whole on the state of the Union, the appropriation bills generally.

Mr. WATMOUGH was, he said, as desirous as the honorable gentleman himself could be, to have those bills acted on, and he wished to lay a proposition before the House which would obviate the necessity of postponing the navy bill, and, at the same time, meet the views of the gentleman. Two amendments had been offered to the navy bill, which, he thought, would be adopted, and then there would be no objection to its engrossment. Those gentlemen who were desirous of speaking would have an opportunity at a later stage of the bill.

The question being taken, the motion to postpone the orders was agreed to, 63 to 57.

Mr. WISE asked whether the motion did not require more than a majority.

The SPEAKER decided that it did not.

Mr. BRIGGS read the rule on the subject.

The SPEAKER said there were many rules of the House which conflicted with each other, and, in his decisions on questions presented under such rules, the

Chair was governed by the suggestions of common sense and the convenience of the House. He had considered this question, and made up his mind in regard to it, before the motion was made.

Mr. WATMOUGH asked whether the orders of the day were entirely disposed of by the adoption of the motion to postpone them.

The SPEAKER replied that the effect of the vote would be to give precedence to the appropriation bills generally; and, after they were disposed of, the navy bill would be first in order.

On motion of Mr. POLK, the House resolved itself into a Committee of the Whole on the state of the Union, (Mr. HUBBARD in the chair,) and took up for consideration

The bill making appropriations for the payment of revolutionary and other pensioners of the United States for the year 1835, and ordered the same to be reported without amendment.

The committee next took up the bill making appropriations for the naval service of the United States for the year 1835, and adopted an amendment, on motion of Mr. POLK, when it was ordered to be reported.

The bill making appropriations for the current expenses of the Indian department for the year 1835 was then considered.

Mr. ASHLEY moved to amend the bill by inserting a provision for the payment of $1,000, as the salary of a clerk in the office of the Superintendent of Indian Affairs; and, after some remarks from Messrs. ASHLEY, POLK, and GRENNELL, the motion was rejected.

Mr. EWING inquired of the chairman of the committee why the bill did not contain a provision to carry into effect the treaty made at Chicago.

Mr. POLK replied that the provision would be more properly placed in a bill which would hereafter be introduced, to carry into effect certain Indian treaties. The object of this bill was to provide for the payment of certain salaries, and to carry into effect the bill reorganizing the Indian department.

The bill was ordered to be reported without amendment.

The bill making appropriations for the support of the army for the year 1835 was taken up for consideration.

Mr. MANN inquired whether the bill made any additional appropriations to those of former years.

Mr. POLK said it did not.

Mr. MANN objected to the provision, "for certain other expenses," as too general.

Mr. POLK stated that the bill appropriated $500,000 less than the bill of the last year, 260,000 of which would go into other bills.

Mr. POLK moved an amendment to the bill, inserting a clause allowing to General Alexander Macomb the sum of $6,080, for certain arrearages of pay and allowances.

Mr. POLK stated that the claim had been audited and settled at the War Department, and would have been paid, had any appropriation been made for it.

Mr. MANN opposed the amendment with some earnestness, and he was followed on the same side by Mr. WILLIAMS.

Mr. R. M. JOHNSON advocated the motion, in reply to the gentlemen from New York and North Carolina; and it was further opposed by Mr. E. WHITTLESEY.

Mr. POLK hoped, he said, that the committee would act on the motion, without further debate for the present; and, in the House, he would be prepared to present the grounds on which the amount was settled at the War Department.

After some remarks from Mr. WHITTLESEY, the question was taken, and the motion to amend was rejected.

The bill was ordered to be reported.

On motion of Mr. MANN, the committee rose and reported all the above bills.

The bills making appropriations for revolutionary and other pensions, for the support of the navy, and for the current expenses of the Indian department, were severally ordered to be engrossed for a third reading.

The House then adjourned.

TUESDAY, JANUARY 13.

Mr. McCARTY moved to reconsider the vote of yesterday, rejecting the following resolution, submitted by Mr. LANE:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of appropriating a portion of the refuse public lands to aid the State of Indiana in constructing a canal from the national road in said State, down the valley of White Water, to Laurenceburg, on the Ohio river.

Mr. McCARTY remarked that, when this resolution was offered yesterday, he was under the impression, as he suggested at the time, that the subject-matter embraced in it had been previously referred to a standing committee. Upon examination, he discovered that he was mistaken; and he had therefore moved a reconsideration of the vote, and hoped the resolution would be adopted.

Mr. LANE said he regretted he could not, in justice to himself, accept the kind aid of his good-feeling colleague, [Mr. McCARTY,] in the motion he had made to reconsider the vote of yesterday, rejecting the resolution he had the honor of presenting to the House for adoption. That it was his intention to present it anew to the House, locating its commencement. That he had made no effort to carry the resolution on yesterday, after the statement of his colleague, [Mr. McCARTY,] "that the subject embraced in the resolution had been heretofore referred to a standing committee." He supposed the statement true, for he had not supposed it possible for his colleague, or any other gentleman on this floor, to hazard any statement of which he was not fully apprized. But, on examination, Mr. L. said, he had become satisfied that no such resolution, as supposed, had been referred.

The resolution under consideration called for an inquiry into the propriety of appropriating a portion of the refuse public lands to aid the State in constructing a canal from the national road down the valley of White Water to the Ohio, at Laurenceburg. The resolution of his colleague [Mr. McCARTY] was an inquiry into the propriety of "a grant of each alternate section of the unappropriated lands on each side of a road leading from Laurenceburg to Fort Wayne, in Indiana."

Mr. L. said that, upon the route of the road in this resolution for the first seventy miles, so far as his information extended, there would not be on either side of said road one acre of public land to set apart for the road. That the resolution he had the honor of presenting, and which had been rejected upon the objection and statement of his colleague, was to aid the State in constructing a canal connecting the national road with the Ohio, passing through the valley of White Water, the richest, and oldest, and most populous portion of Indiana. The question, said Mr. L., is with the House for their decision; but that he would prefer presenting the resolution anew to their reconsideration.

The motion to reconsider the vote rejecting the resolution was then negatived.

The following message was received from the President of the United States:

WASHINGTON, *January* 13, 1835.

To the House of Representatives:

In compliance with the resolution of the House of

the 6th instant, requesting copies of any circular or letter of instructions emanating from the Treasury or War Departments since the 30th day of June last, and addressed to either the receiving or disbursing officers stationed in States wherein land offices are established, or public works are constructing under the authority of Congress, I transmit herewith reports from the Secretaries of the Treasury and War Departments, containing the information sought for.

ANDREW JACKSON.

On motion of Mr. POLK, the message and accompanying documents were laid on the table and directed to be printed.

THE PUBLIC MONEYS.

Mr. GAMBLE moved the consideration of the following resolution, heretofore offered by him:

Resolved, That the Secretary of the Treasury be directed to digest and prepare, and communicate to this House, a detailed plan by which the public revenue of the United States may be collected, safely kept, and disbursed, without the agency of a bank or banks, either State or national.

Mr. GAMBLE was anxious, he said, that this resolution should be adopted without delay, as the subject was about to come before the House in the form of a bill from the Committee of Ways and Means. He hoped the House would indulge him in taking up the resolution now, for the morning hour would be monopolized by his honorable friend from Kentucky, [Mr. CHILTON,] the scope of whose remarks appeared to be coextensive with the Union.

Mr. CHILTON said, if he could be permitted to commence, he would close his remarks before the expiration of the hour this day.

Mr. GAMBLE would be willing, he said, that the gentleman should have the privilege at any other time.

Objections being made, Mr. G. moved the suspension of the rules, in order to take up his resolution; which motion was rejected.

INTERNAL IMPROVEMENT.

The House then resumed the consideration of the resolution heretofore offered by Mr. CHILTON.

Mr. CHILTON resumed his remarks on the subject, and spoke till the expiration of the hour, without concluding; when

The House proceeded to the orders of the day; and several bills were taken up, read a third time, and passed.

THE ARMY APPROPRIATION BILL.

The House resumed the unfinished business of yesterday, being on the amendments proposed in the Committee of the Whole on the state of the Union, to add an appropriation for "arrearages in the pay department of the army, $6,080 05."

Mr. POLK said he had but few words to address to the House on this amendment, and if he failed to convince every member on that floor of the justice of that item, he was perfectly willing the subject should be sent to one of the standing committees of the House. He regretted that the honorable chairman of the Committee of Claims [Mr. WHITTLESEY] was not then in his seat, as he believed the documents he held in his hand would be perfectly satisfactory to him, and would obviate all his objections to the amendment. Mr. P. stated that this amount of arrearages accrued between the years 1818 and 1821, while General Macomb was commanding at Detroit, and was the difference between his ordinary pay as a brigadier and his pay as a major general by brevet. This allowance had been made to Generals Scott and Ripley at the same time, and under similar circumstances. Mr. P. here produced various documents from the Departments, and the opinion of the Attorney General, which were then read. He concluded by expressing the belief that the explanations which he had submitted to the House would be perfectly satisfactory, and that no further objections would be urged against the appropriation. If such objections, however, still existed, he had no personal feelings in the matter; it might go to a standing committee. But should that course be taken, Mr. P. suggested that it would probably prevent the action of Congress on the subject at its present session.

Mr. MANN said he had not yet had sufficient time to examine the effect of this amendment, since it was placed before the House last evening. He wished to know the difference between the brevet and the ordinary pay. In order that members might have some opportunity for investigation, he hoped the chairman of the Committee of Ways and Means [Mr. POLK] would suffer it to lie on the table at least another day.

Mr. WILLIAMS wished to advert to one fact, which did not seem to have struck the attention of the House. A simple resolution of that House could give no power to the Secretary of War to pass upon and pay the claim of General Macomb. It would require a joint resolution to confer such a power. But (Mr. W. said) he opposed the amendment because the subject seemed to demand the investigation of a standing committee of the House. Nothing, he contended, should ever be inserted in an appropriation bill, unless it were of the most indubitable character. On the justice of this claim there seemed to exist serious doubts among various members of the House.

Mr. McKINLEY followed with some general remarks on the claim, which seemed to be founded on the law of the land, and did not require the investigation of a committee.

Mr. MINER saw no necessity of sending this item to a committee for further investigation. It had been allowed by the proper accounting officers, and seemed to be a proper subject for appropriation. He should vote for the amendment.

Mr. WARDWELL asked why, when Generals Scott and Ripley received this extra pay—as it had been alleged they did—why did not General Macomb also receive his at the same time, and in the same manner?

Mr. POLK again explained. He had this morning inquired into the reason why this claim had not been passed upon at an earlier period. He did know that General Macomb was, at the time, aware of his own rights upon the subject. It was well known, too, how adverse persons connected with the Department were to review the acts of their predecessors; hence the subject had been turned over to the action of Congress. He again adverted to the favorable decision made upon the claim by the officers of the Government, which appeared perfectly conclusive. The only question he apprehended was as to the time and place of making the appropriation.

Mr. MANN said it had been assumed that the duties had been performed, which would sanction this claim, under the act of 1818. This, he contended, remained yet to be proven; and it was for this very reason he wished the whole matter to go through the searching investigation of one of the standing committees of the House. He thought it very remarkable that General Macomb should have suffered this claim of $6,080 05 to stand so long, without making a demand on the Government. He had endeavored in vain to ascertain the amount of that officer's present pay under the Government. What that amount was he could not tell, nor could he find any gentleman who could tell.

Mr. BRIGGS thought the only question before the House to be, "Is or was General Macomb entitled to

the sum specified by the laws of the land?" If so, the appropriation was certainly a proper one, and the amendment ought to be adopted. Mr. B. said he had carefully examined the subject, and could not resist the conclusion that this was a valid claim. He referred to the specific terms of the law of 1818, which clearly fixed the principle of allowing the pay corresponding to the brevet rank. The gentleman from New York [Mr. MANN] had referred to the present pay of the officers, and stated that he could not ascertain its amount. Mr. B. said this, with him, was not the question. It was, whether an officer should be paid for specific duties performed, the prices of which were fixed and sanctioned by law? He should vote for the amendment.

Mr. PARKER opposed the amendment. It was due to the House that the claim should go to a standing committee for examination. He looked upon it in the light of any other private claim, and the appropriation bill was not the proper place to settle a private claim of fourteen years' standing. He disavowed all prejudice against the claim, but he wished to see it come here in the shape and on the ground of all others. He would, therefore, vote against the amendment.

Mr. HUBBARD addressed the House at some length against the amendment. He could see no injustice that would be done to any by a reference of the subject to a committee.

Mr. LANE asked where the claims of Generals Scott and Ripley were investigated? Whether it was on that floor, or by the Departments? He desired information on this subject, as those claims were said to be analogous to this.

Mr. WILLIAMS again opposed the amendment, and was in favor of referring the matter to a committee. He concluded that there was no proof of this officer's having held the command which entitled him, by the law of 1818, to the extra compensation demanded.

Mr. GRENNELL was also in favor of having the light which the investigation of a committee might throw upon this claim. The sum was far from being an inconsiderable one; and, what would be much worse than the allowance of an unjust claim, the insertion of this item in the appropriation bill might establish a precedent of the most dangerous character.

Messrs. BRIGGS and HUBBARD each made a few additional remarks.

Mr. POLK wished the amendment read by the Clerk, in order that the House might see what they were about.

The amendment having been read--

Mr. P. said he had called for its reading for the simple purpose of showing to the House that it was of the same character as all former items in appropriation bills providing for arrearages, and also to meet the objection of gentlemen who thought this bill an improper place for it. The item was for nothing more than arrearages of pay in the army, which had been called for by the Secretary of War, and presented itself in this character; it came within the line of duty of the Committee of Ways and Means to introduce it to the attention of the House. Mr. P. read the letter of the Secretary of War, which set forth that he considered this claim in the light of a subsisting and standing debt, and requested the committee to insert it in the bill. Mr. P. hoped, after this, that every gentleman would dismiss from his mind the consideration that, if this claim were well founded, the bill before them was not the proper place for it.

Another objection that had been urged was, that the amendment was pressed with too much pertinacity; but it was not so, as far as Mr. P. was concerned. He had never been desirous that the House should act precipitately on any matter, however his own judgment might be at variance with the opposition to it. On the present subject he had no private opinion or bias whatever; and had only presented it as a matter of duty. This was a claim presented to the House, which had received the favorable adjudication of the Second Comptroller, the Secretary of the Treasury, and the Secretary of War; and the question was how it should be paid. Mr. P. also read the opinion of the Attorney General in favor of the proposed mode of liquidating the claim. Mr. P. did not deny but that the House might withhold the appropriation, because it might decide that the officers referred to had been wrong in their construction of the law; but he had done his duty in presenting it for their consideration.

Mr. WHITTLESEY, of Ohio, referred at some length to the former proceedings on this claim, and said, that although the decision of the Military Committee had changed its character, yet in his opinion it ought to undergo the further examination of a standing committee; and he should, therefore, at present, vote against the amendment.

Mr. MANN, of New York, called for the yeas and nays; which were ordered.

Mr. CAMBRELENG asked if he understood the honorable chairman of the Committee of Ways and Means correctly, that the claim was founded upon a law? and that he had read that law to the House?

Mr. POLK replied in the affirmative.

Mr. CAMBRELENG. Then I shall vote in favor of the amendment.

The question was then taken on the amendment, and decided as follows: Yeas 57, nays 131. So it was lost.

The bill was then ordered to be engrossed for a third reading to-morrow.

Mr. POLK then asked leave to move that the papers in relation to the claim of General Macomb might be referred to the Committee on Military Affairs.

Mr. WATMOUGH moved their reference to the Committee of Claims.

The first motion was put and lost: Ayes 62, noes 70; and they were accordingly referred to the Committee of Claims.

The SPEAKER communicated a letter from the honorable JAMES M. WAYNE, a Representative in Congress from the State of Georgia, announcing his resignation of his seat. Ordered to lie on the table.

On motion of Mr. MERCER,

The House then adjourned.

WEDNESDAY, JANUARY 14.

VIVA VOCE ELECTIONS.

Mr. REYNOLDS rose and remarked that, some weeks since, he had offered a resolution, having for its object to change the rule of the House in regard to the mode of electing its officers--requiring that the vote hereafter should be *viva voce*, instead of by ballot. He did not wish to urge this subject on the consideration of the House; but supposed that it would be as well to dispose of it at this as at any other time. It required no great deliberation to arrive at a proper conclusion on it. He therefore moved to take it up.

Mr. WILLIAMS objected.

Mr. REYNOLDS then moved a suspension of the rule, and on that question he demanded the yeas and nays; which were ordered, and were: Yeas 94, nays 87.

Two-thirds not voting in the affirmative, the motion to suspend the rules was therefore negatived.

HOUR OF MEETING.

Mr. POPE, by consent, submitted the following resolution:

Resolved, That after this day the daily hour of meeting of this House shall be at 11 o'clock, A. M., until otherwise ordered.

Mr. WHITE, of New York, called for the yeas and nays on the adoption of the resolution; which were ordered.

Mr. GARLAND moved to amend the resolution by striking out "after this day," and inserting "after Monday next;" which was adopted as a modification by the mover.

Mr. HARDIN moved to lay the resolution on the table.

Mr. WHITE, of New York, called for the yeas and nays; and they were ordered.

The question being taken, it was decided in the negative: Yeas 70, nays 125.

Mr. BROWN moved to amend the resolution so as to fix the hour of meeting at 11 o'clock, after the 1st day of February.

Mr. POLK was willing, he said, to meet at as early an hour as would be suitable for any practical purpose, but he did not think it would add to the despatch of business to change the hour at present. Most of the committees were still very closely employed from an early breakfast hour till the present hour of meeting. It was not usual to change the hour at so early a period of the session as this.

Mr. POPE remarked that there was before the House a vast deal of business of deep interest to the Western country, and there were more bills on the table than could be acted on at the present session. An earlier hour of meeting would enable the House to despatch some business which would otherwise be neglected.

The amendment was agreed to, and the resolution, as amended, was adopted.

The House then passed to the orders of the day.

THE ANNUAL APPROPRIATION BILLS.

The army appropriation bill was read a third time and passed.

Mr. POLK moved to postpone the orders of the day, with a view to go into Committee of the Whole on the state of the Union, and take up the remaining appropriation bills.

Mr. WATMOUGH opposed the motion—desiring to take up the navy bill.

The question being put on postponing, the yeas were 54, the nays 60.

No quorum having voted,

Mr. WISE moved a call of the House; but it was negatived.

The question being again put on postponing, it passed in the affirmative: Ayes 72, noes 65.

The House accordingly resolved itself into a Committee of the Whole on the state of the Union, (Mr. HUBBARD in the chair,) and took up

The appropriation bill for fortifications heretofore commenced.

Mr. POLK explained the items of the bill, and showed why no appropriation was asked for Fort Calhoun and the fort at Grand Terre, Louisiana. He stated that the present bill called for $432,000 less than the similar bill of last year.

Mr. EVERETT offered an amendment, proposing to appropriate for the fort on Castle island, $75,000.

Mr. E. supported his motion, showing why this item was waived by its friends at the last session. He adverted to the reduced amount of money in the present bill, and urged it as a reason in favor of the amendment. He explained the necessity of repairs in the sea-wall on the island: and insisted on the necessity of rebuilding the work there. He stated that at this moment not one cannon could be brought to bear in defence of the great naval establishment in the bay, where four ships of the line, besides frigates, and a vast amount of public property, lay exposed. Mr. E. adverted to the opinion of the Department in favor of the work, and insisted that, as the only question was a question of time, there could be no more proper period to commence the work.

A communication from the Secretary of War was read at the Clerk's table.

Mr. POLK replied, stating that the proposed work would cost about $250,000, while the repairs contemplated in the bill would cost but $8,000. The reduced amount of the bill formed no argument for the amendment; it was sufficient to give the Department all they asked; and this was not asked for. The plan was, in fact, for a new work, and the bill only provided for works already commenced.

Mr. GORHAM supported the amendment of his colleague, reminding the House that the work had already been passed upon and approved, and was marked as in the first class. The present fortress on Castle island was very old, and had had no repairs for forty years. He dwelt on the preferable nature of the plan for rebuilding over that for merely repairing the fort. If the House was of opinion that the repair ought to be made at all, there was no better time to commence it. Since 1816 the navy yard had greatly increased. Not less than seven millions of public property was there exposed, without a gun to defend it; beside all the amount of private wealth and of human life, all which lay at the mercy of the first attack.

Mr. DUNLAP opposed the amendment. He thought the House ought not to commence new forts till those already built were armed. Other parts of the coast were equally exposed, although forts might have been built near them: for a fort without guns was no defence. It was true Congress should determine if they would carry into effect the general plan reported by the engineers. He adverted to the large increase in the corps of engineers—this was only that they might traverse the Union and find ways to expend the hundreds of millions of public money appropriated for such objects. The country was in no situation thus to give away the people's money. Let the compromise on the tariff first be tried in its operation on the Treasury. Let us not rush again into debt by giving money for new forts. This fort was said to be very old and useless: it might be so; and how many of those built even since the war were in the like situation. The multiplication of forts involved an increase of the army to man them.

Mr. EVERETT replied and explained. The guns were all on the spot, though now not one could be worked—not more than twelve or fifteen new guns would be needed. Colonel Thayer was of opinion that all moneys expended on the present old work would be utterly wasted. The Department, though it left the question of time to Congress, did, in fact, ask for the appropriation—as they declared that the work was needed, and ought to be erected.

Mr. DICKERSON thought our forts were harmless during peace, but very dangerous during a time of war. Many were unarmed; and he could not consent to build new forts till those erected were armed.

The question being put, the ayes were 45, the noes 67. No quorum having voted, messengers were despatched to the Senate chamber, (where Mr. CLAY was speaking on the question of a war with France,) but no quorum still appearing,

The committee rose and reported the fact to the House.

Mr. POLK thereupon moved a call of the House.

The roll was called accordingly; but before the Clerk had got through with it, the call was suspended, and the committee resumed its sitting.

The question being now once more put on the amend-

ment proposed by Mr. EVERETT, it was rejected: Ayes 59, noes 77.

Mr. McKIM proposed to amend the bill by adding a clause for the repair of Fort McHenry, $50,000. He stated that he had some time since presented a memorial from the citizens of Baltimore on this subject, and sent to the Chair a report from the War Department in relation to it. Mr. McK. stated that not one gun was mounted on the fort, though there were three mortars. The work was not in as good a state as in 1814, but had in a great degree gone to decay. Baltimore contained one hundred thousand inhabitants, and one hundred millions of property, without a gun to defend them. What might be the state of our foreign relations none could tell. The city was the third in the Union, and had gallantly defended itself, and was entitled to some notice as well as other places now defended.

Mr. POLK opposed the amendment, stating that it had not been before the Committee of Ways and Means, nor was the appropriation called for by the Department.

The amendment was not agreed to.

Mr. THOMSON, of Ohio, from the Committee on Military Affairs, offered an amendment for the repairs of the fort and sea-wall at St. Augustine, $44,000. He presented a report from the committee, stating the urgent necessity for the repairs, in order to preserve the castle and defend the town from the incursions of the sea, by which it was at one time in danger of being submerged.

Mr. POLK opposed the motion, and quoted the report of the War Department, stating that the officer employed at this spot had been put under arrest for misconduct, and that the point was not of importance in the scheme of defence, the place being in fact defended by the shallowness of water on the bar.

Mr. WHITE, delegate from Florida, advocated the amendment. It was not for a new work, but for the repair of an ancient fortification which had cost two millions of dollars, and which, without some such measure, must be precipitated into the sea. The destruction of the sea-wall had been the act of our own officers, since the place passed into the hands of the United States. He stated that the appropriation was petitioned for by all the officers and citizens at St. Augustine. Mr. W. protested against Congress becoming a mere court to register edicts from the War Department. He read the report of an officer sent to the spot by that Department to succeed the dissipated young lieutenant who had been placed under arrest. Unless the appropriation should be made, one of the bastions would, before next year, fall into the sea. It was contemplated to deepen the harbor, when it would be one of the best on our southern coasts. A large amount of public property had been exposed, and by the act of our own officers. As to the report stating that the work was of little consequence, after Congress had appropriated for it and passed the law, it was an insult to the House. This fortress had kept out General Pinckney's army for eighteen months, before Florida was in our hands; and it would be of equal value now the country was ours.

Mr. POLK rejoined with warmth, insisting that the House had no authentic information of the facts in the case. He defended the report from the charge of amounting to an insult to the House, and expressed entire distrust in the estimate of $44,000 for this work. He repelled the idea that any executive officer, high or low, should dictate to Congress the course for it to pursue; but yet insisted that much weight was due to reports from the Department.

Mr. JACKSON, of Connecticut, after some comments on the defenceless state of our important harbors, inquired whether this bill was not intended to remedy such a state of things.

Mr. POLK replied that the bill was only for works already commenced by this Government.

Mr. WHITE insisted that the fact of this fort's having been constructed by Spain made no difference as to the propriety of preserving it. Congress had already decided that the repairs should be made; it was an object sanctioned by law, and $44,000 would accomplish it. As to the shallow water on the bar, a canal was projected, which would connect the St. Mary's and the St. John's; and one sand bar removed, there would be eighteen feet upon the bar.

The question being put, the amendment was negatived: Ayes 61, noes 82.

Mr. PARKER moved to amend the bill by striking out the appropriation for the fort on Throg's neck, on the East river, near New York. He supported the amendment, insisting that no man who was acquainted with the site of the work could believe that it was necessary, or was worth half a million of dollars. The interposition of the whirlpool of Hellgate must for ever prevent an attempt of a hostile fleet. He had been told by experienced naval officers that they had rather approach New York through the narrows, with all the forts in that quarter, than pass Hellgate, without any fort at all. This fort was a hundred miles from Montauk point, at the east end of Long island. It would not prevent the enemy from landing troops below and approaching the city. Instead of being placed in the general plan, as No. 1, it should have been No. 99. He wished to arrest the progress of the work, and had rather sacrifice the 20 or $30,000 already spent, than incur the expense of 5 or $600,000 for an object totally useless.

Mr. FERRIS, of New York, said he had heard imperfectly the remarks of the gentleman. He went at some length into a statement of the topography of the East river, at the point where this fort was proposed, and adverted to the opinion of the ablest engineers in favor of the work. He stated that French frigates had escaped through the sound from a British fleet off the narrows; works to defend New York were interesting to all parts of the Union, as that was a point at which property of citizens in all the States was concentrated. He expatiated on the importance of New York as a commercial metropolis, and protested against a niggardly spirit in appropriating money for its defence.

Mr. POLK quoted reports from the War Department, and referred to the ground he had formerly taken in opposition to this work; but the House had overruled him. A large sum had been expended, which must be lost if the amendment should prevail. The time to arrest the plan was now past.

Mr. CAMBRELENG said he had voted against the appropriation for this work, on account of the lateness of the time of year. But he should now vote in favor of it. He replied to the remarks of Mr. PARKER, and referred to the maritime history of the last war, insisting that the East river presented a most favorable avenue of access to the city and harbor.

The question being put, the amendment was rejected without a count.

Mr. SEVIER inquired what had become of the estimate for Fort Gibson, on the Arkansas river.

Mr. POLK replied and explained, referring to the vote of Congress last year, cutting down the amount to $5,000.

Mr. SEVIER explained. He was in favor of the removal of the fort and barracks from their present site in the Indian country, to a point on the river within the territory. He moved an appropriation of $20,000 for this object.

Mr. WISE moved the rising of the committee, but withdrew the motion at the request of Mr. POLK.

The bill was now laid aside to be reported to the House.

Mr. POLK then called up the bill from the Senate appropriating $107,000 for the barracks at New Orleans. The bill had failed last session, for want of time. This bill was also laid aside.

The committee then rose and reported both bills to the House, without amendment; and the latter bill was read a third time and passed.

The House then adjourned.

THURSDAY, JANUARY 15.

SHIP CHANNEL AROUND THE FALLS OF NIAGARA.

Mr. HARD presented the petition of citizens of Niagara county, in the State of New York, for the survey of a ship channel around the falls of Niagara.

In presenting this petition, Mr. H. said he should move the reading and printing thereof. It would be recollected that the Committee on Roads and Canals, at the last session, reported a bill, now on your table, making provision for the survey, examination, and estimate, for constructing the various projects therein mentioned, at the head of which was the project for a ship channel around the falls of Niagara. A survey of this project had already been partially made by an association of private gentlemen, at their own expense; sufficiently accurate, however, to test its practicability, and a favorable and flattering report made, strongly recommending that project. The national importance of this project has been long and universally acknowledged, and its necessity as a national work has become the more obvious, from the fact that our Canadian friends have constructed a similar one across the peninsula lying between Lakes Erie and Ontario on the Canadian side. From the importance of the project, both to the State which I have the honor, in part, to represent, and to the nation at large, I move that the petition be read, referred to the Committee on Roads and Canals, and printed; and it was ordered accordingly.

GRANT OF THE HALL.

Mr. WILLIAMS, by consent, submitted the following resolution:

Resolved, That the use of the hall of the House of Representatives be granted to the Colonization Society on Monday evening, the 19th instant.

Mr. MARDIS demanded the yeas and nays. He was unwilling that the hall should be given up for any such purpose.

The yeas and nays were ordered, and were: Yeas 123, nays 53.

So the resolution was agreed to.

INTERNAL IMPROVEMENT.

The House resumed the consideration of the resolution heretofore offered by Mr. CHILTON.

Mr. CHILTON resumed and concluded his remarks on the subject, and called for the yeas and nays on the adoption on the resolution; which were ordered. [Mr. C's speech has been given heretofore.]

Mr. ASHLEY rose to correct an error into which the gentleman who had just taken his seat had fallen, in relation to the State he had the honor in part to represent. The gentleman, in the statement he had given of the several amounts appropriated for internal improvements in the different States, had set down Missouri as having received $24,000. This was a mistake. Missouri had not received one dollar; in that respect she was similarly situated with Kentucky. The error had probably arisen from a sum of that amount having been appropriated for the territory west of Missouri and Arkansas.

Mr. HARPER, of New Hampshire, moved to lay the resolution on the table; whereupon Mr. CHILTON asked the yeas and nays; which were ordered.

Mr. SEVIER's amendment was negatived.

The question being taken, it was decided in the affirmative, as follows:

YEAS—Messrs. J. Adams, John J. Allen, Wm. Allen, Anthony, Archer, Barringer, Beale, Bean, Beaumont, Blair, Bockee, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cage, Cambreleng, Casey, Chaney, Chinn, Claiborne, Samuel Clark, Clay, Clayton, Clowney, Coffee, Cramer, Davenport, Day, Deberry, Dickerson, Dunlap, Ferris, Philo C. Fuller, W. K. Fuller, Fulton, Gamble, Gholson, Gillet, Gordon, Graham, Grayson, Griffin, T. H. Hall, Halsey, Hamer, J. M. Harper, Harrison, Hathaway, Hawkins, Henderson, Howell, Hubbard, Huntington, Inge, Jarvis, Richard M. Johnson, Noadiah Johnson, S. Jones, Benj. Jones, Kavanagh, Kilgore, King, Lansing, Laporte, Lay, Lea, Lee, Loyall, Lucas, Abijah Mann, Joel K. Mann, Manning, Mardis, John Y. Mason, Moses Mason, McComas, McIntire, McKay, McKinley, McLene, McVean, Miller, Robert Mitchell, Moore, Morgan, Muhlenberg, Murphy, Osgood, Parks, Parker, Patton, Patterson, Peyton, Pickens, Pierce, Pierson, Pinckney, Polk, Pope, Ramsay, Rencher, Reynolds Robertson, Schenck, Schley, A. H. Shepperd Shinn, Standefer, Sutherland, William Taylor, Wm. P. Taylor, Turrill, Vanderpoel, Van Houten, Wagener, Wardwell, Whallon, White, Wise—122.

NAYS—Messrs John Quincy Adams, Heman Allen, Ashley, Banks, Barber, Barnitz, Bates, Baylies, Beaty, Bell, Binney, Briggs, Bull, Burd, Burges, Chambers, Chilton, W. Clark, Corwin, Coulter, Crane, Crockett, Darlington, Denny, Dickson, Evans, E. Everett, Ewing, Fillmore, Fowler, Garland, Gorham, Grennell, H. Hall, Hannegan, Hard, Hardin, James Harper, Hazeltine, Hiester, W. Jackson, E. Jackson Janes, W. Cost Johnson, H. Johnson, Kinnard, Lane, Letcher, Lincoln, Love, Martindale, Marshall, McCarty, McKennan, McKim, Mercer, Milligan, Miner, Phillips, Potts, Reed, W. B. Shepard, Sloane, Spangler, Steele, Philemon Thomas, Thomson, Tompkins, Trumbull, Turner, Tweedy, Vance, Watmough, Webster, F. Whittlesey, Wilson, Young—77.

So the House determined to lay the resolution on the table.

FORTIFICATION BILL.

The House, on motion of Mr. POLK, then passed to the orders of the day.

The fortification bill coming up, and the question being on its engrossment,

Mr. EVERETT moved in the House the amendment which he had offered in Committee of the Whole, proposing the appropriation of $75,000 for the repair of the fort on Castle Island, in Boston bay. He supported the motion by quoting a report from the War Department, stating the necessity of the fort, and also that the other fort already ordered on George's Island would not be a substitute for this one, as the one would be needed for the inner, the other for the outer harbor.

Mr. GORHAM read to the House from the report of Colonels Totten and Thayer, who had surveyed the harbor, in reference to the means of its military defence. He accompanied it with a few brief remarks in support of the motion of his colleague.

Mr. POLK replied, denying that any estimates had been sent to the committee from the Department of War, as the basis of an application for appropriation. The report of Colonels Totten and Thayer was not sanctioned by the authority of the Department; it rested on their responsibility. The increase of expense for fortifications had originated in the House, not with the

Department, and he called on the House to resist the practice. Let the appropriations be kept down to the amount of estimates. He read from the report of the Secretary of War.

Mr. GORHAM rejoined, insisting that the report of Totten and Thayer did form a part of the return of the Secretary of War.

Mr. POLK, with some earnestness, insisted that the report, though communicated by the Secretary, received no authoritative sanction from him.

Mr. PARKER quoted the report of last year from the War Department, thinking it threw light enough on the subject to guide the House, and giving it as his opinion that, if the House relied on the facts stated, they should grant the sum necessary to put the fort in a state of full repair: he should vote for the amendment.

Mr. EVERETT asked the yeas and nays; and they were ordered.

Mr. POLK regarded the vote as decisive of principle in the question of appropriations for fortifications, and therefore moved a call of the House, which was ordered, and the House was called accordingly; two hundred and ten members answered to their names.

The roll having been gone through with, the names of absentees were called, and the call was then suspended.

The question being taken on the amendment proposed by Mr. EVERETT, it was decided in the negative: Yeas 89, nays 120.

Mr. McKIM renewed in the House the amendment he had offered in Committee of the Whole, for the repair of Fort McHenry, appropriating 50,000 dollars for that object. He quoted from the report of the Secretary of War on the subject, and, without adding any further remark, asked for the yeas and nays; which were ordered.

Mr. POLK opposed the amendment, stating that the memorial of the people of Baltimore, on this subject, had been committed to the Military Committee, who had it under their consideration.

Mr. McKIM said the chairman of the Military Committee had handed him the papers he had read, that he might use them before the House.

The question being then put, was decided in the negative: Yeas 65, nays 130.

Mr. THOMSON said that, notwithstanding the fate of the two last amendments, he considered it his duty to offer again the amendment he had offered in committee yesterday, for the repairs of Fort Mariana, and a sea-wall at St. Augustine, in Florida. Mr. T. supported the amendment on the same grounds he had urged in committee, insisting that good economy and good faith alike demanded of the Government to correct the evil inflicted by its own officers in the destruction of a sea-wall; in consequence of which absurd conduct, a fort which cost two millions of dollars was in present danger of being precipitated into the sea, and the city of St. Augustine was exposed to inundation.

Mr. WHITE, of Florida, supported the motion, remarking with some severity on the course of Mr. POLK, in resisting all amendments to the bill. He referred to the act of Congress appropriating for this object; to the report of the Military Committee, and urged the pressing necessity of the circumstances. He adverted, with some humor, to the course of certain gentlemen of the House, and claimed their votes on the ground of those formerly given by them. He concluded with an appeal on behalf of the people of St. Augustine.

Mr. THOMSON called for the reading of a paper which had been included, with other papers sent to the printer, but which, from some unaccountable reason, had been omitted in the printed report laid on the tables.

Mr. POLK replied, urging that the fort could not be approached by any enemy, owing to the shallowness of the water on the bar. He repelled the charge of being governed by the dicta of the War Department, but insisted that a regular course should be pursued, and a report made, before any appropriation should be granted. For want of such a restriction, there had already been vast amounts of public money expended on slight ground, and there would be no end to similar applications of the public money. The Department recommended no item for this object to the Committee of Ways and Means.

Mr. THOMSON said that it was difficult to withstand a man of the eloquence and influence of the gentleman from Tennessee; but the representations he had made were at least highly colored. Though the work proposed had been commenced without a recommendation from the Department, yet since then it had been recommended; and, by the House, had been sent to the Committee on Military Affairs. All the committee asked was that the sea-wall should be restored to the state in which the country received it, and thus save a valuable public work, and ensure the safety of the city of St. Augustine.

Mr. WISE moved an adjournment, but withdrew it on request of Mr. POLK.

Mr. MANN moved a reconsideration of the vote of this day, respecting the pay of the Post Office Committee; the motion was laid over until to-morrow.

The question was then put on the amendment moved by Mr. THOMSON, and decided in the negative, by yeas and nays, as follows: Yeas 67, nays 111.

So the amendment was rejected.

When the House adjourned.

FRIDAY, JANUARY 16.

ALABAMA TWO PER CENT. FUND.

Mr. BLAIR, from the Committee on Roads and Canals, reported a bill to authorize the State of Alabama to apply the two per cent. fund reserved from the nett proceeds of the sale of the public lands, under the compact, to the construction of a canal between Tennessee and Coosa rivers; which was read twice.

Mr. B. said the bill made no appropriation. It only permitted the State of Alabama to divert the two per cent. fund from an unnecessary purpose to one in which the State of Alabama and four other States were deeply interested. He therefore moved that it be engrossed for a third reading.

Mr. GILLET asked whether the State of Alabama had signified her wish that this money should be appropriated to this specific purpose.

Mr. BLAIR stated that the bill expressly provided that the assent of the State of Alabama should be given to the measure, before it was carried into effect.

Mr. McKINLEY said he was taken by surprise by this bill. He did not know whether he should vote for it or not. But he had never heard of the project before, and he was not certain that it would benefit his constituents. He moved to lay the bill on the table, but withdrew the motion.

Mr. CLAY said that, by the terms of the compact between Alabama and the United States, it was stipulated that two per cent. of the nett proceeds of the sale of public lands within the State should be applied to the construction of roads to the State. Fifteen years had now elapsed, and the fund accruing from this source amounted to about one hundred and fourteen thousand dollars. Not one dollar of it had ever been applied to making a road to the State, and probably never would be. She was too small to go far in the construction of such a road leading to the State, as

would do Alabama, or any other State, much good. This bill proposed to allow the State of Alabama, should she prefer it, to change the direction of that fund, and apply it to a communication, by railroad or canal, between the Tennessee river and Mobile bay.

Mr. MERCER said it was well known to the House that, on the admission of new States into the Union, a fund of five per cent. was reserved from the proceeds of the sale of lands within their respective limits, to be applied to internal improvement within those States, and to external improvement by roads leading to them. Illinois was the only exception to this provision; her whole fund being applied to improvements within her limits. The only question was, whether the fund should lie idle and inactive, or whether the State of Alabama should be permitted to apply it to a useful purpose. He suggested to the gentleman from Tennessee the expediency of committing the bill to a Committee of the Whole on the state of the Union, where it could be taken up and considered at any time. In this way, his purpose could be accomplished, whereas it was almost certain that the bill would be lost if it was pressed in the present temper of the House.

Mr. MARDIS was certain, he said, that if the bill was understood, there would be no objection to it. He explained that the bill proposed merely to permit the State of Alabama to apply funds reserved to her, under the compact with the United States, to a railroad or canal between the Tennessee river and Coosa river, which is connected with Mobile bay. This was one of the highest objects to which the fund could be applied. The work proposed would complete the line of steamboat communication between Maine and New Orleans, with the exception of three hundred miles. When he heard his colleague [Mr. McKINLEY] say that he was taken by surprise in this matter, he was astonished. Was not his colleague aware that this work had engaged the earnest attention of the State of Alabama ever since her admission into the Union? How could the gentleman say that his constituents were not interested in an improvement which would add to the wealth and importance of the State? He could not suppose that he acted on the selfish principle of opposition to any work of improvement, unless it enured to the exclusive benefit of his own particular district. The district which he (Mr. M.) represented had as little interest in the work as any other, but to the State it was an object of the greatest importance. He hoped his colleague would withdraw his opposition to the bill. He was not aware that the bill was to be reported to-day, but he was not taken by surprise in regard to the measure contemplated by it.

Mr. McKINLEY had, he said, expressed surprise at the report of the bill; for he had never heard the subject spoken of by any one of his colleagues. Was it strange that he should be surprised at a proposition to engross a bill relating to his State, before it could be examined, and before any of the members from that State had heard of it? Was it strange that he should look to the interests of his own constituents in regard to the disposition of a fund which belonged to the people of Alabama in virtue of a compact between them and the United States? The fund was reserved for the purpose of making roads to the State; and, therefore, the people of every part of the State had a common interest in it.

Mr. BLAIR rose, he said, to explain the reasons why he had asked the House to engross this bill. For many years an application was made to Congress to undertake the proposed improvement as a national work. This application having failed, Alabama proposed to undertake it as a State work, and a bill was now before the State Legislature, authorizing a loan of a million of dollars for its construction. When the State of Alabama was so zealous in the matter as to offer to hypothecate the property of the State to raise the necessary funds, it seemed to him very proper to give her the aid of her own funds which were in our possession. This was the reason of the extraordinary hurry of the committee in proposing the engrossment of the bill. He was opposed to the commitment of the bill. He would rather the House should vote it down at once, than bury it under the rubbish on that table. Every one knew that a bill committed, at this period of the session, would stand no chance to be acted on. He would prefer that the bill should be voted down directly, that the people of Alabama might know that, after having tried in vain to get grants of money and of land for this work, they could not even get a change of appropriation, which would enable them to use their own money for the object.

Mr. FILLMORE, after disclaiming any hostility to the object of the bill, stated that it required an appropriation of 114,000 dollars out of the treasury; and that, by a rule of the House, all bills touching the appropriation of money should first be considered in Committee of the Whole House. He therefore moved to commit the bill to the Committee of the Whole on the state of the Union.

Mr. BLAIR said this was not a bill making an appropriation, nor touching an appropriation.

Mr. BRIGGS wished the Chair to state whether, under the rule of the House, it was necessary to commit this bill.

The SPEAKER said his impression was, that it was not necessary to commit it. It was not a bill making an appropriation, but merely authorizing the State of Alabama to make a particular use of a fund already belonging to her.

Mr. McKINLEY, in reply to the Chair, begged leave to say that there were two funds reserved. One of three per cent. was given to the State, to be disbursed by it, within its limits; but the two per cent. fund was held by the United States, and its disbursement was limited to the specific object of making roads leading to the State.

The SPEAKER said, in that case, the bill must be committed, for reasons which he stated.

The motion to commit the bill was then agreed to.

CLERK TO INDIAN OFFICE AT ST. LOUIS.

Mr. GILMER, from the Committee on Indian Affairs, reported a bill to authorize the superintendent of Indian affairs, at St. Louis, to employ a clerk; which was read twice, and after some explanations from Mr. POLK, in favor of the engrossment of the bill,

Mr. GARLAND objected to the engrossment, for the reason that a like facility had not been accorded to any of the bills concerning the State of Louisiana. If gentlemen would say that the rules of the House should be suspended in order to expedite the business generally, he would agree to it. But he would not consent to give precedence to bills now reported over those which had been committed some weeks ago.

After some remarks from Messrs. ASHLEY and POLK, in favor of the engrossment,

Mr. POLK moved to suspend the rule, in order to move the engrossment of the bill; and, the question being put, it was decided in the negative.

Mr. POLK felt called upon, he said, to move a suspension of the rule, in order to proceed to the consideration of the appropriation bills. He had received two letters from the proper officers, informing him that the contingent fund, and the fund for the payment of the members of the two Houses, was exhausted. After the letters were read,

Mr. WHITTLESEY remarked that the reason which

the gentleman had offered was one of the weakest which could be offered in this House. Because our pay fund ran out last night, were the claimants on the justice of Congress to be refused a hearing?

Mr. POLK said the fund was exhausted a month ago.

Mr. LANE said the members could wait a few days for their pay, as well as the claimants.

The motion to suspend the rule was rejected.

On motion of Mr. ARCHER, the House resolved itself into a Committee of the Whole, (Mr. WARD in the chair,) and took up and considered the bill for the relief of the legal representatives of

RICHARD W. MEADE.

The bill having been read by the Clerk,

Mr. ARCHER called for the reading of the report on the claim by the Committee on Foreign Affairs. [Which was accordingly also read by the Clerk.] Mr. A. then supported the claim at some length, going into a minute detail of all the circumstances out of which it grew. The Government of the United States had put it out of the power of the claimant to collect this debt from Spain, by the solemn stipulations of a treaty. In pursuance of these stipulations, our Government had received a certain sum of money for various claims, including this, and paid out the whole amount to others than the present claimant.

Mr. WHITE, of Florida, recapitulated the circumstances attendant on the execution of the treaty between the United States and Spain, by which Florida was ceded to the former. In answer to an inquiry of the gentleman from Virginia, [Mr. ARCHER,] Mr. W. said the United States did, by the terms of that treaty, assume the claims of our citizens against that Government.

Mr. POLK regretted that some members of the committee had not prepared themselves to meet this bill. It was an old acquaintance in the House, and had long ago been rejected by a vote of more than two to one. Mr. P. opposed the validity of the claim, at considerable length, and gave a succinct statement of the former proceedings both of Congress and of a commission appointed for the purpose several years ago, in reference to it. If the House adopted this bill, they would be reopening a mass of claims to an amount of not less than thirty-nine millions of dollars, which would come under the same principle. Mr. P. also contended that there was no additional evidence presented at this time more than was before the Spanish commission, and on which they had heretofore adjudicated, and appealed to the honorable chairman of the committee if this was not so.

Mr. ARCHER said, if the bill should pass, he was given to understand that additional testimony would be adduced.

Mr. POLK said, then he was right; there was no other evidence before the House than was before the commission, and, by passing the bill, the House would be entertaining an appeal from a tribunal of its own creation, to the hazard of many millions of the public treasure. Mr. P. said, if he could believe there was one dollar due to this individual claimant, he would cheerfully lend his feeble aid towards its recovery. He sincerely desired strict justice to every American citizen. He concluded by expressing a wish that the bill might not be decided upon to-day, but a farther time might be given for its investigation.

Mr. ARCHER asked for the reading of the bill, by which the House would perceive that it embraced no appropriation, but simply directed an investigation to be made by the Attorney General and two auditors.

The bill having been read by the Clerk,

Mr. POLK called for the reading of the bill of 1828, which having been done, Mr. P. said the first two sections of both bills were the same, but the one before the House contained a provision for the payment of the claim, should a decision be made in its favor, which was not in the former one.

Mr. ARCHER said he was not aware before that the bill contained a clause for the payment of the claim. He moved that this clause be stricken out.

Mr. EVERETT, of Massachusetts, called for the reading of a document which had some bearing on the question. The report of the committee of 1826 was then read by the Clerk.

Mr. E. said it was true that the bill of 1828 was lost by a vote of two to one, but he would remind the House that, in 1826, the same bill passed by a majority of not less than two to one, and the honorable gentleman from Tennessee voted in the affirmative.

Mr. POLK said the bill of 1826 was brought on at a late hour of the evening, at the heel of the session, and he would admit that he did vote, as perhaps others did, in the dark, as to the facts, and without having given the subject due examination. Mr. P. also remembered that his vote was quoted against him on the occasion of the rejection of the bill of 1828, and he then gave a similar explanation.

Mr. EVERETT continued to advocate the claim; which, he contended, was founded in truth and justice, and rested upon its own merits, without reference to the other claims alleged by the gentleman from Tennessee to be involved in the same principle. He could see no evil that could result from its reference to a board for investigation.

Mr. HARDIN said he regretted that business of another character had compelled him to be absent during the greater part of this discussion; but he desired to give his sentiments on this claim, since it was one which he had investigated at a former session. He would proceed, if it was the pleasure of the committee, but as the hour was late, he moved that the committee rise.

The motion being agreed to, the committee rose, reported progress, and obtained leave to sit again.

The House then adjourned.

SATURDAY, JANUARY 17.

ACCOUNTS OF ARMY AND NAVY OFFICERS.

Mr. MANN, of New York, asked the House to consider two resolutions which he had (by permission) laid upon the table a few days since, requesting the Secretaries of the War and Navy Departments, respectively, to furnish copies and statements of the items and aggregates of the compensation and allowances to the officers of the army and navy, including all stated and special allowances of every description, for the last two years, and showing, also, their travel and grades, and where stationed, and what services they have performed.

Mr. M. said that he had been informed, since these resolutions have been laid upon the table, that it was not probable they could be answered in season to permit any action of the House upon the subject at this session, and wishing to afford the Departments ample time to make full and accurate reports, he would take occasion now to say that, on the coming in of such reports at the next session, he would ask for the appointment of a committee to consider and thoroughly investigate the subject, in the hope that ample, equal, and even liberal justice, might be done to all the officers engaged in those branches of the public service.

The resolutions were then taken up, modified by the mover, and adopted in the following form:

Resolved, That the Secretary of War be requested to communicate to this House an abstract of the items of all accounts and claims for the compensation and allowances of every kind for the last two fiscal years, distinguishing each year, ending 30th September, 1834, of the generals,

colonels, lieutenant colonels, majors, and captains of the army, and also of all officers attached to the engineer and topographical departments, which have been actually paid and allowed, with a general statement, showing also the aggregate pay and emoluments, including all stated and special allowances paid and allowed to each commissioned officer of the army, name and rank of every grade for each year aforesaid, and the aggregate of the whole; and showing, also, the places from and to which, and the computed distance between such places, and the amount for which transportation has been allowed and paid to each officer of the army, and where stationed, and what services each has performed.

Resolved, That the Secretary of the Navy be requested to communicate to this House an abstract of the items of all the accounts and claims for compensation and allowances of every kind for the last two fiscal years, distinguishing each year, ending 30th September, 1834, of the captains, masters commandant, lieutenants, pursers, and agents, of the navy, with a general statement, showing also the aggregate pay and emoluments, including all stated and special allowances actually paid and allowed to each commissioned officer of the navy, by name and rank, of every grade, and where stationed, (excepting midshipmen,) for each year aforesaid, and the aggregate of the whole; showing, also, the places from and to which, and the computed distance between such places, and the amount for which transportation or travel has been allowed and paid to each officer of the navy, and where each is stationed, and what services each has performed.

THE JUDICIARY.

Mr. REYNOLDS submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of extending the federal Judiciary to all the States in the Union alike, and report thereon.

Mr. R. remarked that he did not pretend to be more patriotic and more able to bring this subject before the House than any other Representative from the new States; but he could not remain a disinterested spectator, and know that the new States were not on an equal footing with the other States. He was raised in one of the new States, and knowing and experiencing the feelings and situation of them, in this respect, he could not rest satisfied on this subject until all enjoyed the same privileges and advantages. The new States could not tax the soil within their limits like the other States, and, in fact, labored under many inconveniences which the latter did not. He conceived that the mere mention of this subject was sufficient to enable this enlightened body to do justice to the new States, and that was all he desired or asked.

Mr. ARCHER observed that the subject was already brought before the Committee on the Judiciary by the message of the President.

It being further suggested that a bill on this subject was in a state of preparation—

Mr. REYNOLDS remarked that he was not heretofore aware of these facts. He knew that the President always did right on this subject—he did not allude to his late message in particular. But, as the subject was before the Committee on the Judiciary, the object was answered, and he would therefore withdraw the resolution; which he did.

ALLOWANCES TO COMMITTEE ON THE POST OFFICE.

The following resolution, which had been agreed to by the House, then came up for reconsideration, of which notice had been given on a former day:

Resolved, That the Committee on the Contingent Expenses of the House be directed to audit the accounts of the members of the committee appointed by the House of Representatives, on the 26th day of June last, for investigating the condition and proceedings of the Post Office Department, at the rate of compensation paid to the committee for preparing a code of laws for the District of Columbia, of which Philip Doddridge, Esq., was chairman, viz: eight dollars per day during the recess, without any other allowance.

Mr. MANN, of New York, moved to reconsider the resolution, for the purpose, as he stated, of moving an amendment thereto.

The motion was agreed to without a division.

Mr. MANN then said he had, with some little care, prepared an amendment to this resolution, which he begged to offer to the consideration of the House.

The amendment was then read by the Clerk, as follows:

Strike out all after the word resolved, and insert,

"That the Committee of Accounts of this House be directed to audit the accounts of the members of the committee appointed by this House on the 26th day of June last, for investigating the condition and proceedings of the Post Office Department, and allow each member of such committee at the rate of eight dollars per day, (including a reasonable time for their travelling respectively to the seat of Government,) during the time they have actually been engaged at the Post Office Department, up to the commencement of the present session."

Mr. M. proceeded by saying he would take this occasion to remark that, in a consultation with several gentlemen of the House, it had been suggested as a matter of justice to this committee, to allow them, in addition to what was proposed, their usual mileage for travelling expenses, and to that suggestion Mr. M. would yield, by a modification of his amendment, if any gentleman wished to propose it. He would do so for this reason, that when gentlemen were called away on public business, their affairs at home must necessarily suffer; and he was willing, upon principle, that they should be paid the same as in an extra session of Congress. The resolution, as amended by him, would give each of these gentlemen about $550, which many of them, perhaps, would be disposed to consider as an inadequate compensation; but whether it would be deemed sufficient by the House, he was not prepared to say. He repeated, he would submit the amendment, and if any gentleman felt disposed to modify it, by allowing the usual travelling expenses of members, Mr. M. would accept the modification.

Mr. WILLIAMS, of North Carolina, was willing to grant the members of this committee a full, adequate, and just compensation; for there could be no question that their duties had been many and arduous; but he was at a loss to perceive how this could be done in the manner proposed, conformably to the laws at present in force. The laws regulating the pay of members had not been repealed, and, until they were, he could not perceive how they could, constructively, allow this committee the extra pay of mileage. These gentlemen had not performed the journey twice; they came to this city but once, and he thought it neither reasonable nor proper that they should be twice paid. That they should be paid eight dollars per diem he thought just, but not double mileage.

Mr. GILLET would inform the gentleman from North Carolina that he knew one of the members of the committee who did return home. He came to this city, spent a considerable time here, and returned to his family; so that one, at least, by the gentleman's own principle, would be entitled to his allowance of mileage.

Mr. MILLER said he could see no necessity whatever for the passage of this resolution. The law had fixed the compensation of members, and it was alleged that this committee met on the first of September. Well,

that was nothing more than a prolongation of the session, or an anticipation of the meeting of Congress. Their duties were precisely similar to those they would have had to perform during the session, and nothing more; and he could see no necessity for giving them more than the law fixed, viz: eight dollars a day. This could be given them without the resolution proposed.

Mr. MANN, of New York, begged to make a single remark in reference to what had fallen from the gentleman from North Carolina, whose opinions, on such subjects, he was bound to treat with respect. Mr. M. had drawn this resolution, giving the members of the committee eight dollars a day for the time they were actually engaged, and he only said that it had been suggested to him by several gentlemen to give them the mileage, and he had said that, if such a modification were proposed, he would accept it. That, having been engaged during the vacation, their necessary business at home must have been neglected, and this offered a reason for the extra pay, though it was not embraced in his amendment. The gentleman from North Carolina said we could not do this without changing the law. Mr. M. knew the law was peremptory on this subject; but he had supposed it competent for the House to appropriate its own contingent fund, and it was upon that principle he relied.

As to the remark of the honorable member from Pennsylvania, [Mr. MILLER,] that these gentlemen would be entitled to their pay of eight dollars a day, as a matter of right, without a resolution, Mr. M. had supposed it necessary, in consequence of its being a special expenditure, out of the ordinary course, and beyond the power of the committee upon the contingent expenses of the House; and he understood that the committee had heretofore refused, or had, in the present instance, refused to audit these accounts.

Now, for the resolution as drawn up by himself. It would give the members of this committee pay for sixty-nine days: their session commencing in this city on the first or second of September, exclusive of the time spent in travelling, amounting, in round numbers, to about five hundred and fifty dollars. The original resolution embraced the whole period of time, from the adjournment of the last session of Congress, on the 30th June. Mr. M. said he understood the practice had been settled heretofore, that committees engaged in the business, and by order of the House, should be paid their necessary travelling expenses. Such was the case last session in regard to the committee appointed to investigate the affairs of the Bank of the United States, who were paid their mileage between the seat of Government and the city of Philadelphia, and no more; their wages as members of Congress went on; but they paid all their other, except travelling expenses. In conclusion he would remark that, notwithstanding the objections of the gentleman from North Carolina, [Mr. WILLIAMS,] the House could appropriate as much of its own contingent fund as it thought proper. Mr. M. would observe that he was by no means particularly disposed to give those gentlemen an extraordinary or unusual compensation, but he was disposed to treat them with liberality.

Mr. GILLET then offered the following amendment to the amendment:

"And that those who came to Washington on said business, and returned home before the commencement of the present session of Congress, be allowed their extra travel and their per diem allowance while attending on said committee, and no more."

Mr. HARPER, of Pennsylvania, said he was opposed to both amendments, because he considered them unfair, unequal, and unjust in their operations. The reason assigned by one gentleman for allowing this extra compensation was, that the usual daily pay was insufficient. That might be true. They have doubtless attended there at an extra expense, and neglected their business, but he did not think this offered a satisfactory reason for double mileage. Besides, it should be remembered that some of these gentlemen resided at comparatively a small distance from this city, and others at a very remote distance, and, therefore, paying them in the way proposed would be drawing a great distinction in the cases, and be no criterion. One would receive very little, and another a great amount. It was well known that, of the compensation received by members of Congress, none was so ample as that of mileage. Some received no less than three thousand dollars mileage, in coming to and returning from Washington, while that of others did not amount to a hundred dollars. This was the ground of his objection to the first amendment. With regard to the second, it seems that some one or more members of the committee took occasion to return home to attend to their private affairs, and it was proposed not only to pay them their eight dollars a day during their absence, but also their mileage for going and returning. This would be rewarding them, not for attending to their public duties, but for going home to attend to their private concerns, and abandoning the former. If additional compensation be necessary any where, it ought to be bestowed rather upon those who remained at their post than upon those who went away.

Mr. CROCKETT said he should oppose both amendments, for he thought the usual pay of eight dollars a day ample. It was nonsense to talk about its being a sacrifice to come there; for if it were, they would not see so many grasping to be members of Congress. He considered eight dollars a day a sufficient remuneration for any man, let his business be what it may.

Mr. FILLMORE opposed the claim for extra mileage, and said it was nothing more than a protracted session, or an anticipation of the session, so far as the committee were concerned; and he was willing to give them what the law allowed, but no more.

Mr. MANN wished to offer a few words of explanation. The gentleman from Virginia seemed to suppose that his (Mr. M's) amendment proposed to pay the committee for all the time of the recess; this was not the case: it only proposed to give them eight dollars a day for the time they were actually engaged in the performance of their duty. He had said that, if that should be considered inadequate, and any gentleman moved an addition, he would not oppose it, but would accept it as a modification. One of Mr. M's colleagues proposed to give them something for going home to attend to—their elections; for we might as well call things by their right names.

Mr. FILLMORE. It is proposed to pay them eight dollars a day, including "a reasonable time for their travelling respectively to the seat of Government," and Mr. F. would like to know what was meant by "a reasonable time?" Was it to be a day's pay for every twenty miles? for that was the principle fixed by the law; or how was it to be fixed? It was immaterial what the amount was, the principle was the same; and, as he said before, it would be paying them, he would even say rewarding them, for going home to attend to their private business. He was disposed to act liberally, and was willing to allow them for the whole time from the commencement of their session, until that of Congress, whether they were occupied the whole time on the public business or not. His honorable colleague asked if Congress had not power to pay this extra allowance out of its contingent fund. Mr. F. would ask if these persons were to be paid as commissioners or as members of Congress? If as commissioners, an act of ap-

propriation must be passed; if as members of Congress, the existing laws already regulated and fixed what was to be done. The case of the bank investigating committee had been cited as a precedent, but it was not in point, since that committee had to travel out of their usual route; whereas, in the case before us, the members travelled from their residences direct to this city, which they must have done if they had not been on the committee. Mr. F. declared his intention of opposing any proposition for extra allowance.

Mr. WARDWELL said as this seemed to be a New York affair, he would make a few brief remarks. The gentleman who spoke last did not seem to understand what the law was. If Mr. W's recollection was correct, it was that no member of that House was entitled to any pay unless he attended, and if any member went away without leave, he was also not entitled to pay. He could claim it only for actual attendance upon the duties of the House. Mr. W. said he was opposed to the amendment; not for the reasons assigned by the gentleman from Pennsylvania, who said that those who came from the greatest distance had the advantage. Mr. W. thought otherwise, and that those who lived near home had the advantage, for they could have a holiday every week, and were not only near enough to give prompt orders about their private affairs, but they might go home every Saturday night. In this case, Mr. W. contended, the House had no power to order the extra mileage, or any more than the lawful eight dollars per diem. He even doubted whether they had power to pay them as a committee; but, at all events, he was decidedly opposed to paying them more than that.

Mr. R. M. JOHNSON said it was his intention to submit a very few remarks to the House. He observed that it was a proper occasion to state, emphatically, that he was opposed to the practice lately introduced of appointing committees to do in the recess what ought to be done during the session of Congress. He hoped that the practice would hereafter cease. It could not, in his opinion, be justified; nor did he think the people would sanction it, whenever the subject was investigated; but having been driven into the measure in self-defence, on account of the committee created by the Senate, it had become our duty to fix the rate of compensation to the members, and he was for paying them neither more nor less than the per diem allowance of eight dollars, which all of the members received. Mr. J. said that it was objected that the per diem allowance embraced the whole recess, and was not limited to the number of days which the committee had been engaged in this city. He understood that the duty of the committee was coextensive with the confederacy, and not confined to this ten miles square. It extended alike to Maine and St. Louis, and beyond; our post offices existed every where; our mail stages and mail coaches were running every where; and he supposed that the committee extended to a minute examination of every thing which concerned the Department, of matters and things in general. The commission was not confined to this place, and if the committee had performed this arduous duty, they deserved pay for every day of the recess, and he would not suppose for a moment that any member of the committee had been deficient. He expected that every member of the committee had so devoted his time to his duty, wherever he was, that he could not, and did not, attend to any other business. It was an interruption of his time, and occupied his mind. If this was not the case, he would not be willing to give full wages. He recollected that, during the last session, a sufficient mass of documents had been reported to require two months to examine and understand them. This, he understood, was performed by the committee—no doubt the mass of useless documents would be found to be pretty much like two grains of wheat in a bushel of chaff—yet they were documents, and required examination, and close examination. He had conversed with several members of the committee, and he understood from them that they were fully as much employed during the recess as members of Congress during a session, for which we receive by law, and by the will of our constituents, eight dollars per day. Unless, therefore, a better mode of compensation could be devised, he should vote for the original proposition; and he wished to give so much by the day, and not allow mileage, or go into constructive journeys, or the contingent expenses of the committee. If we departed from the rule of paying what we all got while in session, we did not know what we should give, and he wished to know precisely the amount given, and then there was no deception or uncertainty.

Mr. J. said he should not trouble the House any longer on the subject. The whole amount would soon be expended in debate. The committee were willing to take whatever the House would grant, and he should be contented and satisfied, whatever it might be; but, for his part, he would vote for paying a reasonable compensation to the servants of the people, if those servants were faithful, which, in the present instance, he believed to be the case. For his part, he would say that, while he would make any sacrifice for his country, if duty called for it, yet, for money, he would not have undertaken and executed what had been done by the committee for double the amount proposed.

The discussion was here arrested by a call (by Mr. ASHLEY) for the orders of the day; which prevailed: Yeas 86, nays 72.

RICHARD W. MEADE.

The House, on motion of Mr. ARCHER, went into committee (Mr. WARD in the chair) on the bill for the benefit of the representatives of Richard W. Meade, deceased.

Mr. HARDIN said, in rising to oppose this claim, he labored under many embarrassments. Among these, the most prominent were its presentation by one of the standing committees of the House, and that committee distinguished, perhaps, above others, for the eminent standing and talents of its members. Another source of embarrassment might be found in the circumstance that the claim involved the essential interests of a widow and female orphans. This circumstance had no doubt operated on the generous feelings of various members; but he contended that, in settling down on the propriety of allowing this claim, the subject must be divested of all such imposing aspects. [Mr. H. here went into a history of the case under consideration.] He said Mr. Meade was a resident of the city of Philadelphia until 1804, when he emigrated to Spain, and there embarked in very extensive commercial transactions, in which he was engaged until 1816, when he was thrown into prison by the authorities of Spain, and remained in durance until May, 1818. He that year, or the year after, arrived in the United States. The whole amount of the claim, (Mr. H. said) was about $491,000, composed of various items, growing out of the contracts existing between Mr. Meade and the Spanish Government; he having furnished that Government with flour and rice to the amount of $4,629,123, between the years 1809 and 1814. This vast amount was chiefly for the supply of the Spanish army, and the English troops under the command of Lord Wellington. Indeed, it was believed that those Powers never could have sustained themselves against the forces of Napoleon, had it not been for the supplies furnished by Mr. Meade. Mr. H. next adverted to the investigation which this claim had received by the board of commissioners appointed to settle the claims of our

citizens against Spain, and the opinion of Judge White, one of those commissioners. He then proceeded to show that, according to the laws of nations, Mr. Meade, having domiciliated himself in Spain, could claim no remedy from this Government for the defalcation of Spain. But it had been said that, by treaty, we had given Spain a pretext for refusing to liquidate this claim; that, because, by the treaty securing the cession of Florida, we had assumed the payment of $5,000,000 of Spanish claims, and paid out every dollar of the same, on authenticated claims, we were bound to pay this claim also. Mr. H. could not subscribe to this doctrine. He protested against the principle of making this Government furnish an indemnity for claims which she could not herself recover from the aggressing nation. She did her best to obtain justice for her citizens, and this was all that could reasonably be demanded of her. The proper evidence to substantiate this claim had not been produced to the commissioners, and they decided (no doubt correctly) against it.

After quoting the opinion of a former Secretary of State, Mr. H. said that, in seeking this claim from the Spanish Government, Mr. Meade had said, in a letter to the King, that he was enthusiastic in the cause, for the support of which his supplies were furnished; that he had embarked heart and hand in the cause of Spain and Wellington against France. And what was the result? After the eagles of France were driven from the soil of Spain, those very troops, the veterans of Wellington, were sent over here to war with us. But he thanked God they met with a different reception. They knew not the American character; and dearly did those very men, sustained by the supplies of Mr. Meade, pay the price of their temerity. And now, forsooth, Mr. M. comes forward and asks us to pay for the flour he furnished to Wellington's army—for feeding the enemies of the United States. Mr. H. said, in the language of the Secretary, just quoted, he thought this claim, of all others, should be the last to be countenanced on that floor. He concluded by moving to strike out the enacting clause of the bill.

Mr. SUTHERLAND said, some six or seven years ago, this claim was before the House. He then examined it, and was fully convinced that it was founded in justice, and advocated it accordingly. From further examination, he still retained the same opinion, and would again support it. He remembered also that the gentleman from Tennessee [Mr. Polk] had opposed the bill on the former occasion. Mr. S. said he would briefly remark, in relation to one of the arguments of the gentleman from Kentucky [Mr. Hardin] against the American citizenship of Mr. Meade, that this point, during the whole discussion, had never been questioned. He was the American consul at Cadiz, and both Spain and the United States had, on all occasions, conceded the fact that he was an American citizen. But (Mr. S. said) he advocated the bill on other ground. It was not a bill to direct the payment of the claim. It did not even refer it to the adjudication of the Supreme Court. No: it was to be placed in the hands of your own officers for investigation. It was to be sent to the Attorney General and two auditors to be designated by the President. He asked if there was a man on that floor who doubted that Mr. Meade had a just claim, without reference to its amount? He did not believe there was. It had not, indeed, heretofore been denied. The Government, Mr. S. contended, was solemnly bound to permit this examination. He explained the reason why the original vouchers were not produced to the commissioners, when they were investigating these claims. They were not supposed, at first, to be essential, and when they were found to be so, it was too late to procure them from Spain in time for the investigation, though every exertion was made to do so. And because the necessary evidence could not be procured in a specific time, did it become the dignity and honor of that House to now plead the statute of limitation against an honest claim? Mr. S. said the present Secretary of State (Mr. Forsyth) was our minister to Spain at the time the facts in question transpired, and was well acquainted with all the circumstances involved. That gentleman, while a member of the Senate, had introduced a bill for the allowance of Mr. Meade's claim. He would present this fact against all the learned argument that might be advanced on the subject. He asked if gentlemen were afraid to have this claim examined by impartial men of their own choice? After some further energetic remarks, in the course of which he adverted to the sufferings of Mr. Meade in a Spanish felon's prison, in which he contracted a disease which finally bore him from this world to another, Mr. S. reiterated his solemn belief that this was a just and honest claim. He did not pretend to determine what should be its precise amount, but appealed to the House to suffer that point to be examined. Let us, said he, go into it with clean hands and a pure heart, and give to the widow and the orphan their just due.

Mr. ARCHER next took the floor in favor of the bill, and after addressing the House some fifteen minutes, on his motion the committee rose, reported progress, and obtained leave to sit again; when

The House adjourned.

Monday, January 19.

CHEROKEE MEMORIAL.

Mr. E. EVERETT presented the memorial of a council held at Running Waters, in the Cherokee nation, State of Georgia, November 28, 1835, and accompanied it with the following remarks:

Mr. Speaker: I hold in my hand, and have been requested to present to the House, a paper, purporting to be the memorial of chiefs and head-men of the Cherokee tribe of Indians, assembled at Running Waters, in that part of the Cherokee country which lies in the State of Georgia, towards the close of the month of November. This council was organized, on behalf of that portion of the Cherokee tribe of Indians who are unwilling, on any terms, to submit to the jurisdiction of the States in which they live, and are desirous of removing, under the protection and by the aid of the United States, to the country already in possession of that portion of their tribe which has crossed the Mississippi.

The original signatures belonging to this memorial are to be found in the original, which is to be presented in the other branch of the Legislature. An authenticated transcript of them is attached to the duplicate of the memorial, which I have now the honor to submit to the House. They are fifty-seven in number, twenty of which are certified to have been written by those to whom the signatures belong. The other thirty-seven are made in the usual manner of persons unable to write. Of how large a portion of the whole tribe the council at Running Waters may represent the opinions, I am not informed.

The memorial, I am satisfactorily assured, is the production of John Ridge, a distinguished member of the Cherokee tribe, and one of the delegates now present in this city from the council at Running Waters. It is at his request, and that of his associates, Elias Boudinot and Archille Smith, that I now present this memorial to the House. It is accompanied by a series of resolutions, adopted at the same council, expressing, in a more condensed form, the opinions and feelings of that portion of the Cherokee nation who were represented in the council, and on whose behalf these papers are now sub-

mitted to the House. These documents are too long to be conveniently read *in extenso*, and, for the sake of economizing the time of the House, I beg leave briefly to state their purport:

They set forth, in strong language, the right of their people to the soil on which they live, and their sense of the wrong done them in the measures taken to dispossess them. And in these views, sir, I feel it my duty to say that I fully concur. They represent the progress they have made in the arts of civilization—a progress, no doubt, well calculated to excite admiration. It has excited the admiration of the friends of humanity, both here and in Europe. They express, however, the sorrowful conviction that it is impossible for them, in the present state of things, to retain their national existence, and to live in peace and comfort in their native region. They therefore have turned their eyes to the country west of the Mississippi, to which a considerable portion of their tribe have already emigrated; and they express the opinion that they are reduced to the alternative of following them to that region, or of sinking into a condition but little, if at all, better than slavery, in their present place of abode. They announce this conviction with that bitterness of language which might naturally be expected from men placed in their situation, and which I think will neither surprise nor offend any member of this House. In contemplating the subject of removal, they cast themselves upon the liberality of Congress to extend to them the means of transportation, more consistent with health and comfort than they have hitherto enjoyed; objects which, I fear, have been too much neglected hitherto; a pecuniary allowance as an immediate resource on their arrival in the West; and adequate assurance of a right of property in the soil, and the enjoyment of political privileges in the new abode in which they may then be placed. I have stated to them that a part of these objects are such as, in the usual mode in which the policy of removal has been pursued, would naturally be first provided for by a treaty between the United States and persons authorized to contract on the part of the tribe. They consider, however, that, in the present unhappy state of the tribe, divided as it is by parties warmly opposed to each other on the subject of emigration, it may be at present difficult, if not impossible, to conclude a treaty generally satisfactory. It is also the opinion of the memorialists that, in the present disorganized state of their people, it may be difficult for the Government to recognise parties, with which it could advantageously act in the negotiation of a treaty. On this subject I do not profess to be able to judge. I have not the means of forming a confident opinion, and I do not wish to take any part in the divisions which may exist between the different portions of the tribe.

I have now, I believe, sir, stated in sufficient detail the purport of the documents which I hold in my hands. I shall, before I sit down, ask their reference to the Committee on Indian Affairs, not doubting but that committee will consider the matters embraced in the memorial with the most favorable feelings towards a class of men who, I must say, have, in my opinion, just cause of deep dissatisfaction with the Government and people of the United States. I believe all sides of the House are fairly represented in that committee; and the two bills reported from it, which passed into laws at the last session of Congress, are, I am informed, satisfactory to the Indians; and the provisions of the third bill, which is still before the House, are spoken of by the memorialists with decided approbation. They are willing to leave their cause to the consideration of the committee.

If this committee, sir, possessing, as I think it does in an unusual degree, the confidence of the House, shall find, in this memorial, any proper subject of legislation; if they can devise, as I trust they can, any means to avert from the remaining portions of the Cherokee tribe the destruction which seems to hang over them; if they can offer any suitable increase of comfort to those who emigrate, and if they can facilitate the work of removal to those who remove, without prejudice to the interests of those who stay, I think the House and the country will sustain them in so doing. For myself, sir, I certainly never expected to present a memorial in this House in favor of the removal of Indians; but I as little expected to be requested by Indians to do so. I have performed this duty at the request of a delegation of three, two at least of whom were among those most active and influential among their brethren, at the time the great stand was made on this floor against the Indian policy of the Government. You cannot, sir, have forgotten those discussions; you took a prominent part in them. I have changed no opinion then expressed by me. But it is the lesson of practical wisdom to yield, when it can no longer be helped, to the force of circumstances. I have long since come to the conclusion, in common I believe with all the friends with whom I acted on that occasion, that the best advice we could give to our Indian brethren was, to yield to the hard necessity of their condition. That advice, sir, in conjunction with members of this and the other House of Congress, whose opinions are of much greater weight than mine, was decidedly expressed three years ago, in letters written at the request of the intelligent and benevolent counsel of the Indians, (Mr. Chester,) and read in council at New Echota. I believe it would have been better for the Indians had it then been followed. I am firmly persuaded that the social, political, and moral condition of this interesting tribe strongly invites them to the West. I fear that swift and certain destruction impends over them, if they much longer delay their removal. I believe that they can now make better terms with the Government than they will be able hereafter to make, and that the longer they remain in their present abode, the more of that which they most wish to preserve—their national identity—will perish. If Congress can do any thing (and I believe they can do every thing) to enable them to make their removal in a manner consistent with life, health, and comfort; to heal their dissensions, to sooth their feelings, to mitigate their sufferings, and establish them advantageously in their new abodes, I hope it will be done; it ought to be done; for when all is done, I fear a heavy debt will lie against us in the court of conscience. I move you, sir, that the memorial and resolutions be referred to the Committee on Indian Affairs, and printed.

The memorial was disposed of accordingly.

FORTIFICATION BILL.

The House resumed the consideration of the bill making appropriations for certain fortifications for the year 1835.

Mr. PARKER moved the same amendment to the bill in the House that he had previously offered in the Committee of the Whole on the state of the Union, to strike out the twelfth, thirteenth, and fourteenth lines, making an appropriation of $30,000 for the fortification on Throg's neck, near the city of New York.

Mr. P. repeated the objections which he entertained against the appropriation. He wished Congress to examine and understand it, or, in the language of the homely adage, "look before you leap." He read several documents relative to the work, which computed its cost at $577,000. He thought the great question with the House should be, whether the money could not be expended to better advantage in other fortifications. He considered all appropriations for this object a waste of the public funds. He believed Hellgate to be a

better and surer protection to the city of New York, from that point of the compass, than the fortifications on Throg's neck could ever be. Mr. P. said he remembered that, during the last war, no one anticipated an attack of the enemy from that quarter. Mr. P. concluded by saying that he opposed this appropriation as a friend to the bill, and the general system of fortification. He deemed it not only useless, but calculated to excite ridicule.

Mr. MORGAN said that the appropriation for the defence of New York harbor, now moved to be stricken out, was certainly not a large one. He had not therefore expected that any gentleman would move to strike it out; least of all had he expected that the gentleman from New Jersey would make such a motion. That gentleman was our neighbor, our next door neighbor; but it is true that he is our neighbor on the safe side. The gentleman resides on those pleasant shores of New Jersey, which, beginning at a point above the city of New York, form the western boundary of its harbor, from that point to the sea, at Sandy Hook. This approach to the city from the sea, and those shores, including the gentleman's residence, are well protected by the fortresses on Staten Island, and the other islands in that part of the harbor. But how is it, in respect to the approach from the sea, on the other side; that is, by the Sound, or East river? Very different, indeed. There is not a gun mounted, nor a proper place to mount it on, between the sea and your city and your navy yard. Should this appropriation be refused, the city of New York will be left exactly in the condition of a house, the owner of which, apprehending an enemy, had secured one door by bolts, and bars, and chains, and locks, but, entirely forgetting the other door, had left it open to the assailant. Indeed, the gentleman who made the motion to strike out seemed to think that the formidable pass, which he called Hellgate, would be a sufficient defence to us. But, even the terror of a name did not exist for our defence; as learned antiquaries and etymologists had proved that the name of this pass is Hurlgate, not Hellgate. In the olden time, the rocks producing the rapid and roaring currents of this pass were indeed objects of terror to the unskilful and timid navigators of those days. They were as terrible to our ancestors as were the Scylla and Charybdis of the Italian seas. But Hurlgate, and Scylla, and Charybdis, have been alike stripped of their terrors, by the skill and enterprise of modern times. Sir, vessels of all sizes may go through this pass with perfect safety. There is not an hour of the day when it is not whitened by innumerable sails; the whole coasting trade, the largest steamboats are constantly passing through it. The first case, I believe, of the passage of a large ship through Hurlgate, occured during the revolutionary war. A British fifty gun ship, commanded by a namesake of the honorable gentleman from New Jersey, the gallant Parker, pursued by a French squadron, was carried by him safely through this pass. In the last war between England and France, two French ships of the line, the Didon and the Cyane, went through it, to avoid a British squadron at Sandy Hook. During our late war, our own frigates, of the largest class, went through it; the President I believe did so, that ship which was lost to us, by carrying away part of her false keel in passing the bar of Sandy Hook, that entrance to New York harbor, which it is acknowledged is well fortified. There is not a doubt that the passage of the Sound, which has been so neglected, is practicable to vessels drawing any depth of water, and that the city of New York, and the navy yard attached to it, are utterly without defence against an enemy making his attack in that direction And will this House leave that city exposed to this danger, by striking out this appropriation? That city, which is one of the greatest commercial marts, if not the greatest commercial mart in the world; that city, where two thirds of our revenue are collected, and, consequently, two thirds of all imports from abroad are received; that city, which is daily receiving the rich freights of the South, and the innumerable cargoes of the East; that city, into which are pouring every hour of the day, by means of the Hudson, and by the northern and western canals, and by the Ohio canal and the great lakes, the vast productions of the North and of the West. All these are constantly accumulating in this great market. And to whom do they belong? Not certainly to the city of New York alone, but to the planter of the South, the farmer and manufacturer of the East, and of the North, and of the West. And is it not the interest of this nation to defend their property? Is it not the duty of this House to do so? But there is a more solemn duty than even this, imposed upon this House. The city of New York contains nearly three hundred thousand inhabitants: if there be any use in fortifications at all—if brave men are to have any thing more than their naked breasts to present to an enemy, come in what manner and with what force he may, then have they a right to expect of you some aid by this appropriation, for the defence of their wives, their children, and their fireside; and they do expect it.

Mr. FERRIS said he had not anticipated the necessity of being again called forth upon this subject, and he appreciated the time of the House too highly to occupy it unnecessarily, or unless he had felt compelled by a sense of duty to reply to some of the objections which had been urged against these fortifications by the gentleman from New Jersey, [Mr. Parker.] His able colleague from New York [Mr. Morgan] had set forth the importance of a proper defence to the city of New York; its importance not only to those whose fortunes made them residents there, but to all the Union; to our foreign commerce and our inland trade, in all their various ramifications; and to all the commercial and agricultural interests of our country. It involved the manufacturing interests also. The cotton planters, the raisers of wheat, grain, and all kinds of produce, looked to New York for their market. He had no desire to speak exultingly of New York, to the disparagement of other places; but it must in candor be conceded, that the advantages possessed by that city were such as to command the greater portion not only of our inland, but our foreign commerce. The aggregate amount of wealth in the city of New York, according to the last estimate, was two hundred millions of dollars. And the question was, not whether fortifications would be desirable on any other point, but whether or not it was important to fortify a place containing such a vast amount of wealth; whether a population of three hundred thousand people, who by their industry and enterprise constituted so great a portion of the wealth of this nation, were or were not entitled to protection; whether, in protecting them, we were not protecting the country; whether the point at which two thirds of the whole revenue of the country were collected, was not worth saving from the grasp of the enemy; and whether it was not important that an enemy should not have the opportunity of placing himself in such a position as would enable him not only to carry off our commerce, but to give us great annoyance both by land and sea. Was it not important that we should not make this a place of rendezvous to our enemies, where they might procure all their supplies without difficulty and without danger? Let it be remembered that an enemy had directed its efforts against that place during the whole revolutionary war. Every individual who was at all conversant with American history was aware how important a position, both to ourselves and our enemies, the city of New York had been during all our struggles.

Now, although it was his duty to rise in defence of the appropriation for fortifying this particular spot, still he considered himself as a representative of the interests, not of the city of New York alone, but of the nation; and he was equally willing to give his assent to any other provision for the defence of any other place, as he was for that of New York. The records of the House would show that, during the short time in which he had had the honor of a seat in that House, his vote had been in accordance with the opinion he now expressed. He had supported the appropriations for the harbor of Boston, and other maritime defences, and he certainly should not fail to do so now, when a speck of war on our political horizon rendered it necessary that we should be well defended upon all points. He would not detain the House, by recurring to the arguments of his colleague, but he would briefly review those of the gentleman from New Jersey, in order that the House might clearly understand how much force there was in the opinion which he had given against the appropriation. Mr. F. concluded by observing that no man could doubt the purity of the motive by which the gentleman was actuated; but, as gentlemen, however pure their motives, might be mistaken, he thought the only question left to the consideration of the House was this--Is this a proper point of fortification, and will it justify the appropriation proposed? If so, he trusted it would be made.

Mr. POLK said he would repeat the facts connected with this case. At the last session of Congress a much larger appropriation was made, and which prevailed by a solitary vote, for going on with this fortification. The question now was, whether the work was to be completed by an appropriation of $300,000. $125,000 had been already appropriated for this very fortification. What had been done? [Here Mr. P. read from an official document the progress which had been made in the work.] Mr. P. proceeded: the amount expended, up to the 1st of October, 1834, was $29,600. Other expenses, probably large ones, might have been incurred since, but there were no accounts on which to base a statement of their amount. It was the apparent fact, that of the $125,000 formerly appropriated, not more than one fourth had been expended. He was not himself aware of the peculiar merits of this fortification, and of its necessity as a defence to the "great emporium" of the Union. This matter would of course be explained by gentlemen who lived in, and represented, the district in its more immediate neighborhood. He was of opinion towards the latter end of the last session, some time in June, he believed, that there was no pressing necessity for this appropriation. He had endeavored at that time to convince the House of this fact, but had failed in his endeavor to do so. If, however, the present appropriation were withheld, there would be a loss to the Government of the sum which they had already appropriated. He submitted it to the House to judge as to the facts and merits of the case. He did not, he would, in conclusion, observe, regard this as one of the objects of the bill.

Mr. FERRIS supplied some omissions which he had made in his topographical description of the assailable points of the city and vicinity of New York.

Mr. BATES said he recollected that the other day, when the proposition was made by his colleague [Mr. E. EVERETT] for an appropriation for Fort Independence, in Boston harbor, it met with opposition from a quarter where it was least expected. The amount of United States shipping and property in that harbor could not secure that appropriation. Now, (said Mr. B.,) I am in favor of this appropriation, which is precisely analogous to that proposed for Fort Independence; and, in order to show the consistency of gentlemen on the question, he would ask for the ayes and noes.

They were ordered.

Mr. TRUMBULL spoke against the amendment and in favor of retaining the appropriation in the bill. He referred to the remark of the gentleman from New Jersey, [Mr. PARKER,] in relation to the protection afforded by the danger of navigating the Hurlgate. That gentleman must be aware that, at certain periods of the tide, that place was perfectly safe and harmless in navigation. It was navigated daily by vessels bearing the commerce of his own State, (Connecticut,) and steamboats, to and from the city of New York. He thought the fortification highly essential to his own constituents, as well as to the citizens of New York, and others.

Mr. PARKER explained. He had not denied that, at a certain state of the wind and tide, this place could be passed.

Mr. CAMBRELENG alluded to the remark of the gentleman from Massachusetts, [Mr. BATES,] who had demanded the yeas and nays in order to convict members of inconsistency. Mr. C. said there was an appropriation already passed in the bill for the benefit of Boston harbor, precisely analogous to this one. That proposed for the reconstruction of Fort Independence, could not properly be so considered.

Mr. BATES said the only difference was, that one appropriation was contained in the bill as reported, and the other was not.

Mr. EVERETT, of Massachusetts, addressed the House for a few minutes in explanation of his views of these appropriations.

Mr. WARDWELL said it seemed the gentleman from Massachusetts [Mr. BATES] had demanded the ayes and noes in order to test the votes of the New York delegation. He did not regret this. He was free to confess that he voted against the proposition to rebuild Fort Independence, because it had not come to the House recommended by the proper committee. With regard to the appropriation under discussion, it was not a matter of any peculiar personal interest to himself or his immediate constituents, as he came from the interior of the State. The subject, however, he was aware, was vitally important to the commerce of Massachusetts and Connecticut, much more so than to the people of New York.

Mr. FERRIS rose to make a further reference to a report of the board of engineers, which he read.

Mr. E. EVERETT said he perfectly coincided with the gentleman from New York [Mr. WARDWELL] as to the importance of this work to his constituents, as well as to others; and he assured him that he should take pleasure in recording his vote in favor of the appropriation. He was not sorry the yeas and nays had been demanded. But the gentleman had said the appropriation for Fort Independence, in Boston harbor, had not been recommended by a proper committee. He would ask what committee could be more appropriate for a military work than that on Military Affairs? They had recommended it; but it would be impossible to procure justice on this point, until Congress should determine to pay some respect to the recommendations of the engineers employed by the Government.

Mr. DICKINSON said: I do not rise with the intention of detaining the House long on this subject. I wish merely to offer a few remarks in reply to the gentleman from New York, [Mr. FERRIS.] He insists on the necessity of the appropriation, upon the ground of the known importance of the city of New York to the Union as a great commercial metropolis. Sir, I do not intend to deny the truth of any of the propositions advanced by the gentleman, bearing upon this point, except the propriety of making the appropriation. I agree with him that the harbor of that city, her immense trade with the interior, through the natural and artificial channels with

which she is surrounded, makes her the first commercial city in America, and that she is destined to continue the first until she is equalled, perhaps surpassed, by her great rival in the Nouthwest, (New Orleans.) I agree with the gentleman, too, that New York is, without doubt, one of the most important military points, whether we regard it as a point of attack or defence, in the Union. But, sir, it is evident, if the city is in such great need of this new fortification for its defence, after the millions which have already been expended, that the former appropriations have been uselessly, or, at all events, imprudently made—not to say thrown away. We have no security that this appropriation will not be as badly applied as the former. And if we do not change our system, in this respect, shall we not be justly chargeable with a careless, if not a wanton, expenditure of the public treasure?

I have not made a calculation of the whole amount expended in providing fortifications for this city. If it was carefully made, it would astonish the House and the country. This is a new fortification, and the estimate which has been sent to the House puts the cost at $600,000. The number of men required to man it will be fifteen hundred. So, if the Government appropriates $30,000 each year, for twenty years, the work would still be incomplete. And the portions of the work executed in this and the next ten years would then be in ruins. Sir, I do not wish to do any injustice to the city of New York; but I hope the House will apply the same principle in this case as was applied to Boston and Baltimore, when the House rejected appropriations the other day for fortifications in their harbors.

It has been said by the gentleman from New York, that, now there was a speck of war on the political horizon, he did not expect an appropriation to fortify the most important city in the Union would have met with opposition. Sir, the fortification now demanded, at the rate of the present appropriation, as has been shown, will not be completed in twenty years. Can it then be seriously expected to be useful, in any war that we are now menaced with? The gentleman could not surely think so. But, sir, if it was completed and defended as proposed, by fifteen hundred soldiers, composed of foreign mercenaries, picked up here and there, I should not consider the city as well defended then. No, sir, I trust that great city has within her own bosom a stronger and surer defence. Let her, besides the works already completed, rest her reliance upon the American hearts among her citizens. If we would fortify our country against the event alluded to by the gentleman from New York, (a war with France,)—which, however repugnant to our feelings, and the recollections of ancient benefits, the honor and character of this country should compel us to meet firmly in the event that France shall fail to comply with her treaty stipulations—there are defences against such a war which I regard as far more important than this on Throg's neck; defences upon which the public money can be far more advantageously expended. Sir, I would point out to the gentleman an improvement in the chief and greatest reliance of this country in a war with France. I allude to the improvement of the navy. And, to improve the navy, it is of the last importance to present inducements that will be sufficient to supply it with American seamen. I have been informed by a distinguished officer in the naval service, that, of the lower grade of officers and seamen, there are three foreigners to one American. Is this condition of our navy a safe and fit one for war? When American and foreign ships come in contact, it is easy to distinguish who is covered by the flag of his native land and who is not. If gentlemen are determined to expend a million of dollars annually for defence, let a portion be expended in placing the rights and liberties of the country where they are always safest, in the keeping of her native sons.

The legislation of Congress upon this subject must strike every one as defective. Twenty millions of dollars have been appropriated for the mere building of fortifications, and scarcely one is now in a state of defence. And it will continue to be the case, as it has been, that the appropriations so clamorously demanded, and improvidently granted by Congress, under the pretext of fortifying the coast, harbors, and cities of the United States, will be sought after more with a view of enriching the particular neighborhoods where these works are located, by the disbursement of the public money in them, than because of any great necessity of these improvements. When this fortification on Throg's neck shall be completed some twenty years hence, I should not be surprised if it should happen again, as it has heretofore, that it will be discovered that Throg's neck is not the best point which could have been selected, and the fortification on it will be adandoned to fall to ruins, to build a new one at a point which may be discovered to be absolutely necessary to defend the city. There has been an extravagance and waste of public money on these objects which ought to meet with prompt condemnation by this House.

It is idle to talk about economy, while so little regard is paid to the utility or necessity of the objects of public expenditure. Sir, I am of opinion it would be better economy, and at the same time provide a safer defence for the country, to repair and arm the forts already built, at the most important and exposed points of our coast, than to pursue the present mode of squandering the appropriation on new works, leaving the old ones to be dilapidated and occasionally repaired, without either new or old ever being completed and armed. We have forts enough, and too many, unless they were better manned. Such is their present dilapidated condition, as I am informed, that, although a million of dollars is annually expended on them, if we should be compelled suddenly to go to war with a strong maritime enemy, the fortifications which have been built at such an immense cost will be as likely to fall into the possession of our enemy, and become strong holds whence to annoy us, as to continue posts for our own defence. Sir, one of the best defences which we can have in a war with France or any other nation, and which I deem far more important than this one on Throg's neck, is to strengthen our treasury. A rich treasury, united with patriotism, is the best reliance of every country, for the successful prosecution or honorable termination of war. And, to preserve the treasury full and competent to meet emergencies, it becomes us to resist the exorbitant and unnecessary demands which are constantly made upon it.

Mr. WARD, of New York, said he should detain the House with only a few observations upon the amendment under consideration. He would not have said a word on the subject, but for the remarks of the honorable gentleman from Massachusetts, [Mr. Bates,] which he considered as rather invidious towards the New York delegation. That honorable gentleman had called for the yeas and nays on the question, for the purpose, he said, of showing the consistency of gentlemen on the question; most of the members from New York having, as he alleged, voted against the appropriation for Fort Independence, in Boston harbor. That opposition, the gentleman remarked, came from an unexpected quarter; and he now seemed desirous of ascertaining whether on a question in which the State of New York is, in like manner, interested, the delegation from New York would vote for or against the proposition. This charge of inconsistency, Mr. W. said, would not apply to him, for he had voted for the appropriation alluded to, though, on reflection, he was led to doubt the propriety of that vote, for the reason that the appropriation had not been recommended by the Committee of Ways and Means, to

which the investigation of the subject properly belonged. But, after hearing the argument on the subject, in the Committee of the Whole, he was induced to vote for it, chiefly by the consideration that it was highly important to put the city of Boston in a perfect state of defence. It was his wish that no distinction should ever be made between one State and another, as to the fortification of our seaboard. Mr. W. said he would take this occasion to declare that he would vote for no appropriation the sole object of which was merely to benefit a State by the expenditure of public money within its limits; and he had no doubt that every member of the House would join him in the declaration. The decision of this question, therefore, would not be governed by any such policy. The expenditure of $30,000, which is the whole sum proposed in the State of New York, was not an object, in that point of view, worthy of the slightest consideration. He believed that the completion of the fort at Throg's neck was essential to the defence of a city which was the acknowledged commercial emporium of our country, and for that reason alone he should vote against the motion to strike out this appropriation. The honorable gentleman from Tennessee [Mr. DICKINSON] seemed to think that we should go on to complete the works already commenced before we began any others, and that we should rely for our own defence from foreign aggression, not upon fortresses, but the stout hearts and strong arms of our citizens.

Mr. W. differed with his honorable friend. He considered, he said, that men of the strongest nerves, sometimes, and under certain circumstances, required a shelter from the enemy. It was, he thought, undisputed, that skilful and scientific fortifications were one of the cheapest, as well as most efficient modes of defence. By a proper system of fortifications, our cities and harbors would be defended at a less expense, both of life and treasure, than by the bare exposure to the enemy of the freeman's breast. The fort on Throg's neck was not a new work, as the honorable gentleman supposed. It had already been commenced, and it belonged to the plan of fortifications recommended under a former administration, for the defence of our commercial cities, by a distinguished individual, now a member of the other branch of our national Legislature, and then at the head of the War Department, [Mr. CALHOUN,] a plan which that gentleman and his friends have great reason to be proud of, and which, if ever carried into full effect, would secure our widely extended country from the insults and assaults of any foreign force. All that was left for Congress to do was to carry out the noble system which had already been begun, and in a few years our cities and harbors, with the vast amount of property always collected in them, in the security of which the citizens of every part of the country are deeply and directly interested, will be placed beyond the reach of danger from foreign hostility; whereas a neglect of these defences would invite and facilitate aggression. It was said that we required no forts for our security. To this remark he would barely reply that it would be difficult to satisfy the enlightened Representatives of a great and free people at this day, that we could with safety dispense with these means of national defence. He would not now enter into a discussion of the general question, whether fortifications were necessary to national defence, for it was sufficient to say that, from the earliest period of which we have any record down to the present time, all civilized nations have relied upon them, in a great measure, for their security from invasion and assault. He adverted to the gallant and successful defence made by our brave troops, under the command of Colonel, afterwards General Hamilton, at Mud fort, in the Delaware, during the revolutionary war, as an illustration of the advantage of such works. The advance of the British armament was impeded by that fort for a great length of time, thereby affording our army an opportunity to take up a secure position near the city of Philadelphia, which afterwards fell into the hands of the enemy. If the works on Throg's neck, which had been commenced, should be now abandoned, all the money which had been expended there would be a total loss to the country. As a proof of the importance of this position to the security of New York, it had been stated, and, to his own knowledge, stated correctly, by his colleague, [Mr. JARVIS,] that General Howe selected this very point as the place for debarking the British army during the war of the Revolution, with the view of dislodging the American army from the city and island of New York. During the whole of that war, it was considered as one of the most important, and one of the most assailable positions in the vicinity of New York; and such, he had no doubt, would again be the case in the event of another war. He therefore hoped the House would not strike out the appropriation, and more especially since it had undergone the scrutiny and received the sanction of the Committee of Ways and Means, to which the subject properly belonged.

Mr. MANN, of New York, said, if this was an original proposition, he should have no hesitation whatever in voting against it; but as it then stood, the case was different. Some gentlemen had made it a local matter, for the exclusive benefit of the city of New York; but the fact was, that Throg's neck was situated at a distance of about twelve miles from that city, on Long Island. Moreover, in General Bernard's report, this place is made an object of especial attention, and was among the plans recommended by him in 1825, as worthy of being put in a situation of defence. Mr. M. said he should vote for no new works till those already in existence were fully armed. They had been told that the fortifications of Boston and Baltimore were not furnished with a single gun, and he thought it time for the House to turn its attention to armaments, and not to the erection of new works. This, however, was not an original proposition, and he should, therefore, vote for it.

Mr. HEATH, of Maryland, also spoke in favor of the appropriation. He hoped the New York delegation would also show a liberal disposition towards important appropriations for the defence of the smaller States. We were one people; our interests were all essentially combined, and we should act as a band of brothers for the true interests of all. He hoped the appropriation would be retained.

The question was then taken on striking out the appropriation, by yeas and nays, and decided in the negative, as follows: Ayes 87, noes 114.

The bill was then ordered to be engrossed for a third reading to-morrow, without amendment.

The House then adjourned.

TUESDAY, JANUARY 20.

Mr. CLAY, from the Committee on Public Lands, reported a bill to extend the time of issuing scrip certificates on United States land warrants; which was read.

Mr. C. asked that the bill might be read a second time, with a view to its engrossment.

After a short discussion, of an explanatory character, by Messrs. VINTON, CLAY, R. M. JOHNSON, and DENNY, the bill was read a second time, and ordered to be engrossed for a third reading.

INDIAN RESERVES.

The following resolution, heretofore offered by Mr. MCCARTY, was taken up for consideration on his motion:

"*Resolved*, That the President of the United States be requested to transmit to this House copies of all letters

and correspondence of all Indian agents and sub-agents, and other persons connected with the Indian department now in the executive or War Departments, or in the office of the Commissioner of the General Land Office, connected with or relating to the survey, location, sale, and transfer of all Indian reserves of land since the year 1825, up to this time; and also all the orders and communications from the Executive of the United States through the War Department or General Land Office, or otherwise, in reference to said surveys, locations, sales, and transfer of Indian reserves, together with maps and plats of said surveys, and of the tracts approved and confirmed by the President under said transfers and sales, and what remains unapproved that have been reported and submitted for his approval, together with the evidence of title."

Mr. MILLER called for some information as to the objects of the resolution.

Mr. McCARTY made some explanations, which, owing to the noise and confusion in the hall, were not heard by the reporter.

Mr. CLAY said the resolution seemed to furnish labor enough to employ all the clerks in one of the Departments for the rest of the session. It seemed to him to be a sort of inquest into all the matters concerning the Indian lands for the last ten years. In order to give time for its examination, he moved to postpone the further consideration to this day week.

Mr. McCARTY could not, he said, consent to this course.

Mr. WATMOUGH here moved that the House proceed to the consideration of the orders of the day; which motion was agreed to.

The bill making appropriations for certain fortifications for the year 1835 was read a third time, and passed.

Mr. POLK moved to postpone all the orders of the day in order to take up the general civil appropriation bill; which was agreed to.

Mr. WATMOUGH inquired whether the navy bill would come up, as a matter of course, after the disposition of the appropriation bills.

The SPEAKER replied that it would.

GENERAL APPROPRIATION BILL.

The House went into Committee of the Whole on the state of the Union, (Mr. SPEIGHT in the chair,) and, on motion of Mr. POLK, proceeded to consider the bill making appropriations for the civil and diplomatic expenses of Government for the year 1835.

The bill being read by clauses for amendment,

On motion of Mr. McKINLEY, a clause was inserted appropriating $2,000 for additional clerk hire in the bureau of private land claims.

On motion of Mr. POLK, a clause was inserted providing compensation for the commissioner of Indian affairs, and the clerks in his office, omitted in copying the bill.

On motion of Mr. POLK, the clauses relative to the purchasing department were amended so as to read as follows:

For compensation to the clerks and messenger in the office of the commissary general of purchases, and for the compensation of a clerk employed at the seat of Government on the business of the purchasing department, $4,200.

Mr. PARKER moved to strike out $850, as the salary of the superintendent of the southwest executive building and the watchmen, and insert $1,200; which was agreed to.

Mr. POLK moved to strike out $6,400 as the pay of sixteen temporary clerks employed for five months to prepare a statement under the resolutions of the Senate of the 6th and 30th June, 1834, required to be made during the recess of Congress, at an average of $80 per month for each clerk, and insert $9,120; which motion, after a word or two from Mr. P. in explanation, was agreed to.

Mr. E. EVERETT moved to insert a clause allowing $1,500 to provide new articles of furniture for the Library of Congress; which was agreed to.

Mr. POLK moved to insert, a clause allowing $4,281 for the pay and mileage of members of the Legislative Council of Michigan Territory, and other expenses attending an extra session of the Council; which motion was agreed to.

The following clause being read: "For allowances to the law agent, assistant counsel, and district attorney, under the acts for the settlement of private land claims in Florida, $5,550:"

Mr. WHITE, of Florida, moved to amend the clause so as to read as follows:

For allowance, &c., $4,050; provided no portion of the same be paid until the claims are adjudicated.

Mr. WHITE supported his motion by a statement going to show that the compensation was not earned, no cases at all having been decided last year, and but six this year; the agent had been absent for ten months out of twelve; and the cases never would be decided as long as such compensations were allowed.

Mr. POLK read the act under which the allowance to these officers was left in the discretion of the President; the allowance for this year was less than formerly, nor would it be safe to withhold the appropriation.

After repeated rejoinders and replies between these gentlemen, the question was put and decided in the affirmative: Ayes 81.

So the amendment was agreed to.

The item for the purchase of law books for the office of the Attorney General, $3,000, being read,

Mr. POLK moved to reduce it to $2,000.

Mr. ADAMS, of Massachusetts, inquired into the origin and necessity of this appropriation.

Mr. POLK explained, and referred to a communication from the Attorney General.

Mr. ADAMS objected to the appropriation in toto; it was entirely new; and, if granted, would be a prolific source of similar expenses. The reasons given by the Attorney General were wholly unsatisfactory. He moved to strike out the item from the bill.

Mr. FOSTER, of Georgia, advocated the appropriation on the ground of the necessity and propriety of such a provision. Congress often appropriated for themselves, on the pretext that they needed tools to work with: why did not the law officer of the Government need tools to work with also? Books were purchased for the library of the Secretary of State out of the contingent fund: why refuse the same to this Department? The Attorney General had to study much at night, when the Congress library was closed and inaccessible: why leave the law officer under such circumstances? The War Department, the State Department, were supplied with libraries: why not the law department? Mr. F. was well known as an opponent of appropriations for books for the use of members of Congress: he should always oppose them; but this was a case entirely different.

Mr. PEARCE, of Rhode Island, opposed the appropriation. He complimented the Attorney General, as one of the most prominent and promising men of the country; but contended that he could do as well as his predecessors with the same helps as they enjoyed. If professional gentlemen would sweep away the cobwebs from the old books, it would be better than to purchase new trash of the day.

Mr. POLK replied, adverting to the important claims

against the United States, and the importance of books of international law, and other very expensive works, for the right discharge of the duties of the public law officer. There was an annual appropriation for increasing the library appropriated to the use of Congress.

The question being put, the amendment moved by Mr. ADAMS was rejected: Ayes 53, noes 72.

Mr. POLK's amendment, reducing the sum to $2,000, was then agreed to.

The following clause having been read: "For compensation to the district attorneys and marshals, as granted by law, including those in the several Territories, and including the sum of three thousand one hundred and seventy-five dollars, being a deficiency in the appropriation to meet the expenditure for the fourth quarter of one thousand eight hundred and thirty-four, fifteen thousand eight hundred and seventy-five dollars:"

Mr. FOSTER, chairman of the Committee on the Judiciary, moved an amendment, increasing the pay of the district attorney of South Carolina, of the marshal of Delaware, so as to equalize their compensation with that of other officers of the same kind in other States. He stated that bills had been proposed for both objects.

Mr. POLK suggested that it would be more regular to wait till those bills were passed; whereupon

Mr. FOSTER withdrew his amendment.

The following item being read, viz: "For defraying the expenses of the Supreme, circuit, and district courts of the United States, including the District of Columbia; also, for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures, incurred in the year eighteen hundred and thirty-four, and preceding years; and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offences committed against the United States, and for the safe keeping of prisoners, three hundred thousand dollars:"

Mr. PARKER stated that this item had been increased $40,000 since last year.

Mr. POLK explained, and produced a list of items on which the clause was founded.

The following item being read: "To make good a deficiency in the funds for the relief of sick and disabled seamen, as established by the acts of sixteenth July, seventeen hundred and ninety-eight, and third May, eighteen hundred and two, twenty five thousand dollars:"

Mr. ADAMS, of Massachusetts, inquired how this deficiency arose?

Mr. POLK replied, quoting a communication from the Department.

Mr. ADAMS thought provision should be made to prevent the recurrence of such demands for deficiencies. He should not, however, move to strike out the clause.

Mr. CAMBRELENG, from the Committee on Naval Affairs, further explained, showing how the demands on this fund fluctuated, so that it was impossible to anticipate their amount. The appropriation was covered by law.

Mr. REYNOLDS moved an amendment, providing $500 for the expense of the survey of certain lots in Peoria, in Illinois.

The amendment was not agreed to.

The following items being read—

"For the salaries of the ministers of the United States to Great Britain, France, Spain, and Russia, thirty-six thousand dollars."

"For the salaries of the chargés des affaires to Portugal, Denmark, Sweden, Holland, Turkey, Belgium, Brazil, Buenos Ayres, Chili, Peru, Mexico, Central America, New Grenada, Prussia, and Venezuela, sixty-seven thousand five hundred dollars:"

Mr. ADAMS wanted to know why contingent appropriation was made for a minister at Great Britain, and another for chargé de affaires at Buenos Ayres. He adverted to the objections he had urged last session to the latter item, our quarrel with Buenos Ayres, the President's assurance of a prospect of reconciliation, and his declaration that he would not send a chargé there while things remained as at present. He approved of this, as honorable and becoming. Why, then, was there now a provision for the same object?

Mr. POLK stated the reply of the Department of State on the application of the $9,000 appropriated for a minister to London, viz: that 6,500 of it had been given to the chargé now there, for salary and return. He presumed it was the intention of Government to send another minister of a different grade. As to the chargé to Buenos Ayres, he had no new explanation to make.

Mr. ADAMS waived his objection to the former item; but moved to strike out the provision for a chargé at Buenos Ayres. There were already $9,000 in the treasury applicable to the same mission, and no chargé likely to be sent. He wished the House should know for what the money of the nation was expended. He hoped the chairman of the Committee of Ways and Means would inquire whether any new prospect existed of a mission to Buenos Ayres.

Mr. CAMBRELENG suggested it would be better to reserve the motion for the House.

Mr. ARCHER made some remarks, imperfectly heard. He insisted on the specific application of moneys appropriated; if applied to any other object than that for which it was given, it was a violation of law. He thought the House ought to brand such a course with reprobation.

Mr. POLK said it seemed to be taken for granted that this had been done. Had the gentleman from Virginia any proof of such a fact?

Mr. ARCHER referred to the remarks of Mr. ADAMS.

Mr. ADAMS said he only inferred from what had been done as to the appropriation for the minister to Great Britain.

Mr. POLK insisted that it was perfectly proper to apply a salary for a full minister to the support of a minister of subordinate grade, if the full minister was not there. Would he have the Government recall the chargé rather than pay him out of the other appropriation? As to the appropriation for a chargé to Buenos Ayres, it was founded on an item of estimate. If further information was desired, it could be had from the Department.

Mr. ARCHER insisted that it was incumbent on the chairman of the Committee of Ways and Means to tell the House what had become of money appropriated; and he now asked that gentleman what became of the money appropriated for a mission to Buenos Ayres? Why was this same sum now asked again, if the other had not been expended? Would it not be base subservience in this House to appropriate, as of course, whatever a Department might ask, even when former appropriations were not accounted for? Had the gentleman from Massachusetts no reason to infer that the money had been applied to a different object from that for which it was given? In the olden time, the House of Representatives did not give whatever was asked, out of courtesy. It was a new doctrine and a new practice.

Mr. CAMBRELENG hoped the motion of the gentlemen from Massachusetts would prevail, and supported it by a few words.

The amendment was agreed to without a division.

Mr. POLK moved an amendment for an outfit to a minister to Spain, $9,000. Our minister at Madrid had received leave to return home next summer.

The item was agreed to.

Mr. POLK moved an outfit for a chargé de affaires to Portugal, $4,500, as it was expected a minister of that grade would be sent before next session.

It was agreed to.

Mr. ADAMS inquired whether the appropriation for a chargé to Venezuela was not a new item? He referred, with an air of pleasantry, to a long debate, at a former session, as to the existence of such a Republic as that of Colombia. It now appeared there was no such Republic; and asked if it was a Republic of Venezuela. As this was only one third part of the old Republic of Colombia, probably the amount would be in proportion. Was there such a Government as that of Venezuela?

Mr. CAMBRELENG said the chargé eto Venezula was more important to our commerce than a minister at Bogota.

Mr. ARCHER replied to the geographical inquiries of Mr. Adams, and expressed his concurrence in the opinion expressed by Mr. Cambreleng. The item was a new one, as the Republic of Venezuela had never before been recognised as a distinct State. It possessed seven important seaports, and we had more trade with it than ever with the old Republic of Colombia.

No motion was made to amend the bill respecting this item.

Mr. SEVIER moved a slight alteration respecting Arkansas, substituting "Legislature" for "Council;" which was agreed to. Also, to reduce $11,000 to $9,000, and to strike out additional compensation to judges. It was carried.

Mr. MERCER said he had sought for a provision in the bill for the execution of the law for the abolition of the African slave trade, as required by law. He therefore moved an amendment, appropriating $20,000 for the agency at Liberia for the recapture of liberated Africans. The amendment was not agreed to.

Mr. PINCKNEY moved to amend the bill so as to pay two surgeons $150 each, for services rendered to the army. It was not agreed to.

Mr. LYON moved an amendment in the appropriation for the Michigan Legislative Council, making the sum the same as last year, $11,448.

Mr. POLK opposed the amendment; the item in the bill was conformed to the estimates. The amendment was rejected.

Mr. PINCKNEY moved an amendment, to purchase the building in Charleston, of the old bank, to be employed as a federal court room, $20,000. It was rejected.

No further amendment being offered, the committee rose and reported the bill to the House.

The House then adjourned.

Wednesday, January 21.

COMMUTATION CLAIMS.

Mr. FORESTER submitted the following resolution:

Resolved, That a select committee, consisting of —— members, be appointed to investigate the commutation claims, and seven years' half-pay claims of the widows and orphans of those who died or were killed in the service of the revolutionary war, as well such commutation and seven years' half-pay claims as have been paid, as those which are still unpaid; and the half-pay claims authorized to be paid at the Treasury Department of the United States, under any act or acts of Congress providing for the payment of the same, as well those that have been paid as those that have not; and that said committee be directed to inquire into the expediency of passing such laws as may be deemed expedient to prevent frauds against the Government and the claimants.

Mr. MILLER said that a bill providing for this whole subject had been reported from the Committee on Revolutionary Claims, and had been made a special order for a particular day.

Mr. CHILTON expressed his regret at the disposition which he had seen manifested in regard to revolutionary claims. He saw in the President's message a recommendation for the total suspension of the payment of pensions, until measures were adopted for the security of the Government from fraud. If this recommendation was acted on, many of the surviving veterans of the Revolution must go to their graves without the compensation to which they were entitled.

Mr. VANDERPOEL was opposed to the resolution, and was, he said, so fully convinced that it ought not to pass, that he would move to lay it on the table; but withdrew it at the request of

Mr. BAYLIES, who said that he, as one of the Committee on Revolutionary Claims, did not view the resolution as casting any reflection on that committee. He understood that its object was to prevent frauds from being practised on the Government, or on the claimants. It was considered impossible to go on as we had done here for many years, by special legislation on this subject; and the bill introduced by the Committee on Revolutionary Claims proposed to give the subject a definite shape, and introduce something like principle and uniformity in the decision of the cases. He should not oppose the resolution, if he thought it would do any good; but he did not see that it would be of any use.

Mr. MASON, of Virginia, said the resolution was entirely different from the bill before the House. It was well known that the most profligate frauds were committed, under the act of 1832, both on individual claimants and the Government. He had proposed a resolution last year, in order to obtain a list of the persons entitled to commutation, and who had not received it, but it being represented to him that the whole country swarmed with speculators, who continually perpetrated the grossest frauds on the Government, in obtaining payment of these claims, when not entitled to receive it, that he determined not to press the resolution. The object of the resolution he understood to be to devise means of preventing these frauds, and this investigation, he thought, did not properly belong to the Committee on Revolutionary Claims, and was a proper subject for a select committee.

Mr. FORESTER said the duty of the Committee on Revolutionary Claims was to investigate the validity of particular claims, and the object of the resolution was to investigate the whole subject, with a view to prevent speculators from preying on the Government and on the claimants.

Mr. MILLER opposed the resolution, because its first branch went to take the subject out of the hands of the committee which now had charge of it. If the gentleman would modify it, so as so propose an inquiry into the frauds committed, and the means of preventing frauds, he would vote for it.

Mr. MUHLENBERG said the object of the bill reported was to settle all the revolutionary claims.

Mr. REED was in favor of the resolution, and felt greatly obliged to the gentleman for introducing it. We were continually pressed with applications for information in regard to these claims.

Mr. GRENNELL advocated the resolution, as one which had for its object the protection of the treasury from frauds, and the protection of the widows and orphans who were now the victims of speculators.

Mr. TURRILL had heard, he said, no good reason why the resolution should pass. The whole subject was now before a standing committee of the House, who would do ample justice to it. That committee had taken a broad view of the subject, not confining their attention to individual cases, and they had obtained information which it would take a new committee a whole session to acquire.

Mr. EWING said, as this was a season of jubilee on account of the extinction of the national debt, in con-

formity with measures so long ago adopted, he wished to add to the general rejoicing by making provision for the redemption of continental paper. This was a debt for which value had been given, and which ought to be paid. As a test of the sincerity of those who rejoiced so much at the payment of the national debt, he moved to amend the resolution by providing that the committee should "also be instructed to inquire into the expediency of providing for the redemption of the continental paper yet remaining unredeemed, according to the principles of equity and justice." He also expressed his decided approbation of the resolution, even without the adoption of the amendment.

On motion of Mr. FOSTER, the further consideration of the resolution was postponed to the 30th instant.

COMMITTEE ON FOREIGN RELATIONS.

Mr. J. Q. ADAMS rose and said that he was desirous of addressing a question to the chairman of the Committee on Foreign Relations; preliminary to which, he must request the Chair to inform him who was the present chairman of that committee.

[Mr. CAMBRELENG said he would reply to the question, that he was the chairman of the Committee on Foreign Relations, having been placed in that station by the vote of the committee.]

Mr. ADAMS resumed. It appeared, he said, from the answer given, that a new principle had been introduced into the House in regard to the organization of the committees. He felt much embarrassment as to the manner of presenting the question to the House, and he had, therefore, addressed it to the Chair, as the usual authority in all cases concerning the journals of the House, which were in the charge of the Speaker. By the usage of the House, the person first named on the committee by the Speaker was considered, *ex officio*, as chairman of the committee, with the reserved power to the House of electing a chairman if they thought proper. That power of electing a chairman was, however, never exercised; or, if it was, it was only on rare and extraordinary occasions. He understood this to be the general usage. The person first named is, *ex officio*, chairman of the committee; and, in the event of the absence or resignation of the person thus constituted as chairman, the individual next named was considered as the chairman.

He found that, in derogation of this usage, the Committee on Foreign Relations had thought proper to elect a chairman of their own, and thereby displace from the station his honorable friend and colleague, [Mr. E. EVERETT.] If this had taken place in regard to the most unimportant committee of the House, he should have thought it proper to notice it. But it became doubly important when it occurred in regard to a committee which, in the present state of our foreign relations, was under a high responsibility to the House and to the nation.

[Here the SPEAKER interrupted Mr. A., remarking that he could not proceed without the assent of the House.]

No objection being made, Mr. ADAMS resumed. I stated, Mr. Speaker, said he, that, under these circumtances, I felt some embarrassment, at the moment, as to the manner of bringing the subject to the notice of the House. The main point to which he wished to draw the attention of the House was this: that here was a chairman of a most important committee of the House, acting as chairman of that committee, and the House knowing nothing of it. According to the usage of the House, every committee, and the name of every member of a committee, stood on the record of the House.

He looked, therefore, to the journals of the House for information on this subject. If it turned out that the committee had elected a chairman, he wished the fact to be so stated. It ought to go on the journals, that every individual might know who is the chairman. As the gentleman from New York had answered that he had been appointed chairman of the committee, he would address another question to him, which he might answer or not, at his pleasure. Was he elected by a majority of the committee?

[Mr. CAMBRELENG replied that he had answered the gentleman's first inquiry before he was aware that it was addressed to the Chair. The question now put placed him in an unpleasant situation, and also placed the gentleman from Massachusetts [Mr. E. EVERETT] in an awkward predicament. In the committee it was perfectly understood that nothing was to be secret. What they had done they were very willing the House should know. At the balloting for a chairman neither he nor the gentleman from Massachusetts voted. The gentleman received three votes and he received four votes. In accepting the station to which he was thus chosen, he was so far from supposing that he offered any indignity to his honorable friend, the gentleman from Massachusetts, that he was under the impression that he was not desirous of holding a situation under circumstances which, from the nicest feelings, had induced the gentleman from Virginia [Mr. ARCHER] to withdraw from it.]

Mr. ADAMS continued. It appeared that the gentleman was elected not by a majority of the committee, but by a minority. Every member of the committee was present, and the gentleman received only four votes, a minority of the committee. Whether the gentleman was properly elected or not, he would not now question. All he asked was, that the fact should be stated on the journals of the House, that he was chosen as the chairman. He wished it also to be understood that, in the manner in which he brought this subject before the House, he intended not the slightest disrespect to the gentleman from New York, for whom he entertained a high regard, and whom, if appointed by the Speaker as chairman, he would have been as well pleased too see the chairman of the committee as any other member of the House. He also believed that the election of the gentleman had relieved his colleague from a most unpleasant and responsible situation. He thought it necessary to bring the matter before the House, because he had not understood it to have been done according to any established usage or principle.

In Mr. Jefferson's Parliamentary Manual it is stated that the person first named acts as chairman, but that the committee have the power to choose a chairman of their own. He believed it was not possible to adduce a single instance in which a committee of this House had appointed their own chairman. The rule is, that the person first named shall act as chairman, and the others follow in the order in which they were named. If it was not so, he would be corrected by the Speaker. Here, then, is a manifest departure from the usage. A chairman is elected, and elected by a minority of the committee. He found in Jefferson's Manual no case parallel to this; nor did he see it in the Manual published by his friend, a member of this House, from Pennsylvania. It required a majority of all the votes to elect a chairman: that was laid down as a rule.

Mr. A. concluded by saying that his object was to make the name of the chairman of the Committee on Foreign Relations a matter of record, leaving it for the Speaker to determine whether the person named second was not, and is not, the actual chairman of the committee according to the rule of the House. He moved that "the name of the present chairman of the Committee on Foreign Relations be entered on the journals of the House."

Mr. EDWARD EVERETT said he did not rise to discuss the motion of his colleague, [Mr. ADAMS,] but to claim the indulgence of the House while he made a personal explanation, which, after what had fallen from the gentleman from New York, [Mr. CAMBRELENG,] was manifestly due to himself and his friends. The gentleman from New York—who had justly alluded to the friendly intimacy which had ever subsisted between him and myself—has remarked (said Mr. E.) that my respected colleague [Mr. ADAMS] has placed me in an awkward predicament before the House. If the situation in which I stand can properly be called an awkward one, I owe it to myself to state to the gentleman from New York that I am placed in it without any concurrence of my own. I make this suggestion, as the reverse might naturally enough be inferred from my well-known relations with my respected colleague. But my colleague has made his motion without any co-operation or prompting of mine. I not only did nothing to cause the subject to be brought before the House, but I believe I may say that my respected colleague was aware, when he made his motion, that, as far as my personal feelings were concerned, I had rather it should not be made. But another remark of the gentleman from New York still more imperiously requires an explanation of the motives from which I have acted, in reference to a matter of some delicacy. The gentleman from New York, if I correctly caught his remark, said that, so far from doing any thing in an unfriendly spirit to me, (which certainly I have never charged him with, and no one on my account, that I know of,) he thought he did me a kindness in placing me in that situation in which the delicacy of an honorable member from Virginia [Mr. ARCHER] had led him voluntarily, at the beginning of the session, to place himself; that is, by not appearing in his seat till the committees were appointed. The natural inference from this remark is, that a like delicacy should have led me, when the chair of the committee was vacated, to decline acting as its chairman.

In reply to this suggestion, it is my duty to remark that, when the chair of the committee was vacated by the resignation of my friend, the late chairman, (whom I call so not from parliamentary courtesy alone, but with sincerity,) it was my personal wish and feeling to decline acting as chairman. This feeling arose from circumstances that the House can appreciate. I was aware that the recent usage of the House (though by no means without exception) was understood to require that the chairman of the Committee on Foreign Affairs should be a political friend to the Executive, which is not my case. I communicated my feelings to friends of the committee and others, and, for reasons which I thought possessed weight, they expressed the opinion that I ought not to act in a matter of public duty on merely personal feelings. I then sought the opinion of the Chair, (and this statement I make with regret, and trusting the Chair will perceive the necessity of my making it in my own vindication,) and I understood decidedly, from the honorable Speaker of the House, that he considered me the chairman of the committee, in the place of Judge Wayne, and that it was, in his judgment, proper that I should act as such without scruple.

But the governing consideration with me was, that in the ascertained state of the opinions of the committee, the considerations of convenience which, in a common case, might require of the chairman of the Committee on Foreign Affairs to be the political friend of the Executive, did not apply. On the great question, the only one before the committee of a confidential character, the question paramount in importance to all others, it is my fortune to be on the majority of the committee. My being chairman could, therefore, throw no obstacles in the way of the action of that majority. I will go farther, Mr. Speaker, and say that, in the simplicity of my heart, I thought that, as in the other House the gratifying example had been set of unanimity on this great question, it was in my power to present a view of the subject to the committee, in pursuance of their recorded votes, which would be unanimously sustained by the committee and the House.

Under these views, believing that the place belonged to me by parliamentary usage, and fortified by the judgment of the Speaker of the House, but not, I confess, without some anxiety, I felt it my duty to take the chair of the committee, till I was removed in the manner stated; a circumatance which could not possibly give less discontent or dissatisfaction to any body than myself. Nobody defers more cheerfully than myself to the various accomplishments of the gentleman from New York; and no member of the committee can discharge his public duty more willingly than myself, under that gentleman as chairman. Nothing could have been more unexpected to me than to be called on to make this statement to the House, the necessity of which I readily submit to their candor.

Mr. JARVIS said this was a question whether one of the committees of the House has a right to elect its own chairman. He did not know before that it had ever been disputed. As it was through his instance that the question was brought before the committee, it was proper for him to state the part which he had taken in it, and which he was very willing to avow. He acted without consultation with any member of the committee on the subject, though he could have wished that some other member of the committee had taken up the subject. He was in hopes that it would be done by the honorable gentleman from Massachusetts himself. The question was brought before the committee under these circumstances: the person first named was considered as chairman by courtesy, but the committee had an undoubted right to elect its own chairman. This was never doubted. For his own part, he had no idea of giving to the Speaker of this House, or any other body, the power of dictating to the committee in regard to the appointment of their chairman. It was said that the chairman was elected by a minority of the committee. The gentleman labors under a mistake as to the fact. On the first ballot, four votes were given to the gentleman from New York, as chairman, three votes to the gentleman from Massachusetts, and one for another distinguished member of the committee. On the second ballot, seven votes only were given, of which the gentleman from New York received four, and the gentleman from Massachusetts three. The gentleman from New York was, of course, declared to be elected.

What was the usage of this House in choosing a Speaker? Do we require a majority of the whole number of members of the House to elect a Speaker, or a majority of those present and voting? As to the fact of the gentleman from Massachusetts being in the majority of the committee, it was news to him. He had attended every meeting of the committee, save one, at which there was no business of importance transacted, and he did not know that the gentleman from Massachusetts was in the majority. He was, on the contrary, then in the minority, and the wishes he expressed were not acceded to by the committee. He knew nothing in the matter brought before the House which required any consideration.

Mr. EDWARD EVERETT rose but to make a word of explanation. The gentleman from Maine [Mr. JARVIS] controverts a statement of facts made by me. I stated that, on the great question before the committee, relative to the relations of the country with France, I was in the majority of the committee, and the accuracy of

this statement the gentleman denies; and he says I am in the minority of the committee. Now, Mr. Speaker, the gentleman from Maine and myself cannot possibly differ on a matter of fact of this kind. I did not mean, that I had voted with the majority of the committee on every question; of course not; but I did mean, that on the great question; the main question; that of reporting a bill to authorize reprisals, I had voted with a majority of the committee against that measure, when submitted by the late chairman. That vote was taken before the gentleman from New York came into the committee; but when, on the day in which he joined it, a motion was made to reconsider that vote, I again voted with the majority of the committee against the reconsideration, and the gentleman from New York voted in the minority. This statement cannot be controverted.

Mr. CAMBRELENG said the gentleman from Massachusetts had mistaken the views of the committee, and also he was mistaken in supposing that the question of reprisals was voted on in the committee. He said that he did not know there was any one member of the committee disposed to propose a measure of reprisals at this time. That the question about which the committee were now divided was on the expediency of reporting a resolution similar to that adopted in the Senate, and on that question the gentleman from Massachusetts was in a minority—a majority of the committee being against immediate action in any shape. He did not express an opinion for or against any measure which we might be hereafter called upon to adopt; nor did he intend to speak for any other member of the committee.

Mr. POLK here said that he felt constrained to move that the House proceed to the orders of the day.

The motion was negatived, 66 to 107.

Mr. GILLET asked what was the question before the House, and whether any motion was properly before the House.

The SPEAKER said the Chair had distinctly stated that the gentleman from Massachusetts could not submit his motion without the assent of the House, and that assent was then audibly given. He was of opinion, therefore, that the debate was in order.

Mr. PATTON said, as a member of the Committee, on Foreign Relations, he felt it his duty to say a word or two on this subject. He did not complain of the course taken by the majority of the committee, though he was in the minority in the choice of a chairman. He voted against the ejection of the distinguished gentleman from Massachusetts from a station which he filled by usage, and he did not now see any justice or propriety in the procedure. He felt called upon to say, as it had been intimated by the gentleman from New York that the gentleman from Massachusetts ought to have retired from the station, that this was a reflection upon himself as well as upon the gentleman from Massachusetts.

Mr. CAMBRELENG said he did not refer to any member of the committee, but to the former chairman of the Committee on Foreign Affairs, [Mr. ARCHER.]

Mr. PATTON had no idea, he said, that the gentleman intended to reflect upon his course, but the intimation that delicacy and propriety required the gentleman from Massachusetts to retire from the position of chairman, was an indirect censure of his course, inasmuch as his vote was given to keep the gentleman from Massachusetts in that position. He thought that there was no just ground on which the gentleman could leave the station. Its duties properly belonged to him, and he would have been recreant to them had he shrunk from their performance. The gentleman, too, had long been the chairman of that committee, and was about to retire from Congress. It seemed to him, in every point of view, that his ejection was uncalled for, unjust, and, therefore, improper. At the commencement of the session, it was true that a gentleman was chairman of the Committee on Foreign Affairs whose views accorded with those of the administration on the subject of our relations with France. But that time had passed. The whole matter had long been before the committee, and its solemn judgment had been given on the questions involved in it; and as he understood the complexion of the opinions of the majority of the committee, it was and is in accordance with the views which he understood the gentleman from Massachusetts to entertain on the subject. There was no reason, therefore, to be found in the views of that gentleman, which could justify his removal, to make room for one who was understood to be in the minority of the committee. It was news to him, to use the language of the gentleman from Maine, but it was most gratifying and acceptable news, that no member of the committee was in favor of recommending reprisals at this time. He rejoiced to hear it. He trusted that it would be proclaimed throughout the land. A great change of opinion must have taken place on the part of the minority of the committee: for at a certain time there was a minority, and a growing minority, which, at one time, he feared would become the majority, in favor of an immediate adoption of the measure recommended by the President.

He was delighted to learn that those gentlemen had changed their views; and he trusted that a majority of the House was ready to sustain the committee in what was now declared to be their views on the subject. He should take an early opportunity to present a proposition to the House which would enable them to express their opinion on the subject. There had been, and was, a proposition before the committee, presented by himself, three weeks ago, which was once rejected, and is now postponed; postponed he knew not for what reason, object, or design. He wished the House and country to understand that he had had no participation in the delay which had occurred in presenting to the House a question of such great interest to the country. There was no man on the committee, he would say, in justice to the administration, who was disposed to cast censure on the administration for its course on the subject; but, on the contrary, they responded to the general tone of the message. As to the appointment of chairman of the committee, he had no feeling on the subject, but he was perfectly willing that the House should now finally decide what are the rights of committees on such questions; and, also, whether the appointment made in this instance was authorized and regular. Having seen no reason for the removal of the gentleman from Massachusetts, he should vote here, as he did in the committee, against his removal.

Mr. CAMBRELENG said, the gentleman, in repelling an attack supposed to be made on himself, had made an attack upon him and the committee. His opinion was, and it was also the opinion of the committee, that, if we mean to do nothing, the only honorable course is to say nothing. When the proper time arrived, he should not be wanting in his duty to the House and the committee. It was the opinion of some of the committee that this was not the proper time to throw upon the House any question upon the subject; others, he was aware, thought it proper for the committee to give an opinion in a report to the House. Mr. C. thought neither the interest nor the honor of the country required of the House the adoption of any resolution of a declaratory or questionable character; that in the present attitude of our relations with France he would avoid any measure, even a negative one, which might be mistaken for an act of homage to the pride of France; and that if the House thought otherwise the committee could be instructed.

Mr. PATTON said he had not intended to attack the

committee, nor any member of it. He had too much self-respect, as well as respect for the House, to express any thing disrespectful to any one of the committee. But the committees of the House were the agents of the House, and under the control of the House, and in the House he had a right to say in what and how far he differed from the majority of the committee. He denied that the committee had any right to prevent, or attempt to prevent, the expression of an opinion by the House, on a question which had been before Congress and the nation for six weeks.

Mr. BOON rose to a point of order. The question of our relations with France was not before the House.

Mr. POLK inquired whether the gentleman from Massachusetts had a right to make the motion without a suspension of the rules of the House.

The CHAIR decided that the assent of the House had been given to the introduction of the motion; but he stated that the discussion must be restricted to the subject of the motion.

Mr. PATTON having concluded his remarks,

Mr. COULTER, of Pennsylvania, (a member of the Committee on Foreign Affairs,) said that he considered the motion of the gentleman from Massachusetts strictly parliamentary, and as being called for, owing to an omission on the part of the committee. It was not his intention to follow some of the gentlemen who had objected to it, in all the train of their remarks; if he should be tempted to do so, he hoped the Speaker would interrupt him. That officer had been placed in the chair that he might enforce the rules of order, and Mr. C. did not feel himself responsible for liberty to speak to any number of irresponsible members of the House. He relied upon the Speaker to preserve the order of the body. He now again affirmed that the motion which had been made was a strictly parliamentary one. It was indeed true that some of the old books on parliamentary law laid it down that, although the name placed first in the appointment of a committee was, by courtesy, held to be the chairman of the committee, yet that the committee had power to appoint its own chairman. He supposed that this rule would be held by some gentlemen as governing that House. Mr. C., however, knew of no instance in this country where such a course of proceeding had been pursued. The invariable usage was, that the first named member on the list was considered not only *pro forma*, but substantially the chairman of the committee; and in case of his resignation, then the individual next in order was to take his place. When the names to constitute any committee of the House were announced, it was universally understood, by the House and the country, that the man first named was appointed as the chairman. If, however, a committee of that body should undertake to exercise the right of displacing any individual of their number while exercising under such appointment the functions of chairman, it was in that case their duty to inform the House of the fact, because, by the rule which courtesy had established, the individual first on the list would still be applied to on all occasions where it might become necessary for the House to make inquiries of the committee, he being the known organ of the committee's action.

This notification was due to the House, and it ought immediately to have followed the election of a chairman. It could not, of course, be expected to be made by the individual chosen, because his delicacy would naturally shrink from such a task. The information should be communicated by one of the members of the committee. The name of the new chairman would then go upon the journal of the House, and all would be in its due order. In the present case, however, this had not been done, and the motion of the gentleman from Massachusetts was strictly proper. What he asked was due to the House, it was due to the individual displaced, it was due to the individual elected, and he thought there ought to be no objection to it.

Mr. C. said that he would further state that, after considerable discussion in the committee, it had been finally agreed that the committee possessed the right of electing a new chairman, if they chose to exercise it. The committee had done so, and the gentleman from New York [Mr. CAMBRELENG] had been, so far as he knew, regularly elected: his election was duly announced to the committee, and he had thereupon taken the chair, and the business of the committee had proceeded as usual. Mr. C. added that, before he took his seat, he must respond to one sentiment which had been uttered by the gentleman from Virginia. It was no matter to him farther than as related to his own personal feelings. [Here Mr. C's voice fell, and what he said in conclusion could not be distinctly heard.] As to the question of our foreign relations, when that question should come up in its proper shape, he should take an opportunity of presenting his views to the House. To do so at this time he considered as altogether irregular.

Mr. ARCHER now rose, and made some remarks, which, at the reporter's seat, were wholly inaudible.

Mr. JARVIS followed, but the commencement of his remarks, for a like reason, cannot be given. As soon as the reporter heard him he was replying to the remarks of Mr. PATTON, and referred to that gentleman as having said that he had voted as he did, because he should have considered it a violation of delicacy and propriety to have voted otherwise.

[Mr. PATTON here interposed, and denied having used any such language. What he had said was, that the remark of the gentleman from New York [Mr. CAMBRELENG] imputed to him a violation of propriety; and, also, that he could see no propriety and no necessity in what the committee had done.]

Mr. JARVIS resumed. The gentleman from Virginia had pronounced the act of the committee uncalled for, unjust, and improper. These words the gentleman certainly has used. Now, it was certain that a majority of the committee had not thought the measure uncalled for; for the vote, he believed, had been unanimous in determining that the committee should elect. That it was not unjust or improper, in the opinion of the majority of the committee, might be inferred from the course they had pursued. Mr. J., without speaking for others, would frankly state the motives which had actuated himself. It was mainly the consideration that the chairmen of the several committees of the House ought to be men who were in confidential relations with the Government; or, at least, men with whom the Government might stand in those relations. The chairman of an important standing committee of the House ought not to be a man who had shown, from first to last, the most open and unrelenting hostility to the administration, and who on every occasion had endeavored to thwart its measures. The gentleman from Virginia, with his delicate notions of propriety, might think it right and fit to embarrass the administration, by the election of a chairman of the latter description; and the gentleman has told the House that, if the case occurred, he should vote for such an one. Mr. J. was glad, on one occasion, at least, to know beforehand how that gentleman would vote. The gentleman had declared that a majority of the committee was in favor of the gentleman from Massachusetts [Mr. EVERETT] as its chairman. On that point, he and the gentleman were directly at issue. He distinctly affirmed that it was not so. Two previous propositions had been before the committee, and they had both been voted down.

In those votes, the gentleman from Massachusetts [Mr. EVERETT] and the gentleman from Virginia [Mr. PATTON] had voted on the first occasion in the majority, and

in the latter with the minority. The gentleman from Virginia had moved one of these propositions, and the committee rejected it. Mr. J. had voted against both of them. If, however, he had been compelled to choose between them, he should certainly have preferred the epigram of the President, to the madrigal of the gentleman from Virginia. That gentleman, however, had been so fond of his proposition that he had brought it before the committee a second time, and then its consideration had been postponed. That was the nearest the gentleman had come at any time to obtaining a majority. It had been the opinion of the committee that, if they intended to do nothing, they ought to say nothing, and not to issue a report to the world which the disaffected might make to speak any language they chose. He was glad now to hear it declared that it had not been the intention of any gentleman in the committee to do any thing but respond to the President. Mr. J. had not been apprized of that; he supposed there had been a disposition to give the House a dose of milk and water. Such a mixture the President was not in the habit of preparing, and it would certainly be no response to what had come from him. The gentleman from Virginia had thought it proper enough at first that the committee should have a chairman who, in political views and feelings, was with the administration. In the middle of the session, however, he preferred having one of an opposite kind. What kind of chairman the gentleman would prefer at the end of it, Mr. J. did not know.

Mr. PATTON replied that he certainly should not wish the gentleman from Maine [Mr. JARVIS] at any period.

One remark had fallen from that gentleman to which he would say a word in reply. The gentleman said, or seemed to say, or appeared to wish it understood, that he (Mr. P.) desired the appointment of a chairman who should embarrass the administration. Now, it happened that events too recent were in the knowledge of the House to give any point to such an insinuation.

Mr. P. had stood there during the last session in a position, and had pursued a course, which must prevent any insinuation of that sort from being credited any where. He had stood there at his post in opposition to the views entertained by nearly two thirds of the Legislature of his own State, and he had made this vindication under circumstances which he knew involved great personal sacrifice. But this he had considered but dust in the scale, when put against the fair and honorable discharge of his public duty, according to his own honest conviction. He had never stood on that floor, nor would he, so long as he should be honored by the confidence of his constituents with a place upon it, to throw embarrassment in the course of any administration whatever; nor would he stand there to echo, with base subserviency, all the edicts of any administration under heaven. He cared not who they were, or what they were. He came to that place to represent the people who sent him, and to maintain their rights and interests against all assaults, whether proceeding from the administration or aimed at the administration.

Mr. P. said he should certainly have thought it best that the chairman, especially of so important a committee as that on the foreign relations of the country, should concur in political sentiment with a majority of the House; because the chairman of that committee was supposed, as a matter of course, to be on terms of somewhat confidential intercourse with the Secretary of State. It pertained to his duties that frequent communications of a confidential kind should pass between them. This was particularly proper while the subjects referred to the committee were fresh, before many communications had been made to the committee.

Still, however, he considered it as a point of very little importance, because he was very sure that the gentleman from Massachusetts, [Mr. EVERETT,] who differed indeed in his political views from the friends of the administration, (whether he endeavored continually to thwart their measures, Mr. P. could not say; he knew of nothing that would justify him in saying so; he presumed the gentleman differed conscientiously,) would conduct the intercourse of the committee with the State Department in an able and gentlemanly manner. And at the time the vacancy occurred in the committee, the whole communication from the Executive on our foreign relations had been received, and was in the possession of the committee, and he could not therefore see any necessity for a change in its chairman: more especially as he thought that, on the particular subject alluded to, the gentleman from Massachusetts did concur in his sentiments with a majority of the committee.

The gentleman from Maine had made one remark which the gentleman seemed to consider as sarcastic, nay, perhaps witty; but wit was always pointless, unless sharpened by truth. What foundation had the gentleman for the gratuitous, and he would add, the insolent insinuation—

[Here the SPEAKER called Mr. PATTON to order, and said that no such language could be permitted.]

Mr. P. resumed—for the insinuation that his opinions could not be known before he had voted. It could be only necessary to bring such an assertion to the notice of the House, for them to respond to its utter want of truth. The want of a frank disclosure of his opinions had never been his fault; the very opposite had often been his misfortune. He had been too frank to wait, as some gentlemen were in the habit of doing, to see which way the wind would blow. This, he repeated, was his misfortune; it was not his fault; and he was willing at all times to submit to the penalties attached to it.

It would be fortunate, however, if gentlemen could know the opinions of some men, even after they had voted. For as they had got to an exposure of what passed in the committee, it might not be amiss for him to remind the gentleman from Maine that the gentleman was one who at first had voted against reprisals, and had then moved a reconsideration of that vote; whether from a change of opinion, Mr. P. had no means of knowing. The gentleman from New York, however, [Mr. CAMBRELENG,] had just informed the House that, at this time, the whole committee was unanimous in the opinion that there ought to be no reprisals. Judging, then, from votes, the gentleman from Maine left him perfectly at a loss whether his opinion was the same as it had been when he first voted or not. Mr. P. said that he was sorry that any thing of a personal character should have found its way into this discussion; he must discharge himself from all imputation of having given it that character. He had explained himself in terms which ought to have restrained the gentleman from Maine from such a course of remark as he had adopted. Mr. P. had not reflected on the committee. He was fully aware that they possessed the same independent right of judgment that he did, and he claimed the same with them. He had not censured the committee, nor reflected on their conduct. He had said, and he still thought, that the election of a chairman was a measure uncalled for and unnecessary; that it was calculated to inflict a wound on the feelings of the gentleman from Massachusatts, and implied an unmerited reflection upon him. The committee, however, had not thought so.

Mr. ARCHER addressed the House, but, as before, the first part of his speech was not distinctly heard. He was understood, however, to say that the motion of the gentleman from Massachusetts [Mr. ADAMS] touched the regularity of proceedings and the rights of the House. The question was, whether a certain individual

was officially known to the House as the chairman of one of its committees. But, in parliamentary acceptation, neither the individual members of a committee, nor its chairman, were, as such, known to the House.

The whole committee, collectively taken, constituted, in view of the House, a single undivided organ for the transaction of a particular kind of business. Hence, committees did not communicate with the House exclusively through any one of their members. Every day's experience proved that they were in the habit of making reports to the House through other members as well as their chairman. A committee certainly possessed the right of displacing their chairman and substituting another in his place; or they might, if they thought fit, agree that their members should take the chair in rotation. The House could take no conusance of what passed in the committee in this respect, unless the committee chose to inform them of it. Gentlemen were mistaken if they supposed there were no precedents of the election of chairman by committees; and, in illustration of this remark, he referred to the case of the late Mr. Randall, who had been displaced by Speaker Macon, as chairman of the Committee of Ways and Means, during the administration of Mr. Monroe, and re-elected by that committee. If the election in the committee had been a fair one, there was no question for the House to decide. He therefore trusted that his friend from Massachusetts [Mr. ADAMS] would consent to withdraw his motion. Mr. A. said he would make one remark which he owed to himself, lest it might be supposed that he concurred in the idea thrown out by the gentleman from Maine, that the chairman of a committee ought always to be an individual holding confidential relations to the executive Government. He could yield his assent to no such opinion. Every committee of the House was the organ exclusively of the House, and, as such, it owed no duty elsewhere. To assert the contrary would be an intrusion on the independent character of the House. It was a false usage; and although he had himself resigned such a situation, in consequence of coming into political collision with the Executive, he had done so only because he knew that such a notion was prevalent in the country.

Mr. ADAMS said that he would readily comply with the request of his friend from Virginia [Mr. ARCHER] and withdraw his motion, if it were understood that the Committee on Foreign Affairs would report to the House who was its chairman, and how he had been elected; but he should not withdraw his motion until he did know this. He had commenced with asking that question, and it had not yet been answered, save by the Speaker, in placing the names of the members in a certain order. The gentleman from New York [Mr. CAMBRELENG] had informed the House that four members out of nine, the whole number of the committee, had voted for him as their chairman, and that he was thus elected. That four constituted a majority of nine, he had not learned yet. However, "*non nostrum tantas componere lites,*" he should not undertake to settle the question of election; but he wished to have it settled. If the gentleman from New York [Mr. CAMBRELENG] was the chairman of the committee, and if, by the votes of a minority of the committee, his friend and colleague from Massachusetts [Mr. EVERETT] had been displaced, he must request a vote of the House requiring that fact to be placed upon their journal. He hoped the House would find out who was the chairman. Mr. A. did not know; if he had, he would have inserted his name at length in the motion. He had stated that his object in making the inquiry was to ask a question of the chairman of that committee, and this he could not do till he knew who it was. It was his purpose still, as soon as the House knew who he was. He should then ask him what the Committee on Foreign Affairs had been doing on this most important subject which had been presented to the notice of Congress during the present session; and when the House might expect a report. He wanted to know to whom he must address himself, and to learn this his resort would of course be to the journals of the House.

His friend from Virginia [Mr. ARCHER] seemed to think that every member of a committee was its chairman, for all were in the habit of making reports to the House. But how did this matter stand in the Manual? The very chapter and page, nay, the very same sentence which declared that a committee had power to elect its own chairman, declared also that the chairman only was the organ of communication between the committee and the House.

Mr. ADAMS quoted Jefferson's Manual in support of what he had advanced. The gentleman had said that such was not the practice of this House. Mr. A. knew it was not. And what did that prove? Why, that the doctrine of the Manual, though it might be law in England, did not apply to us. And this had been one of the grounds he had at first taken. It was not the usage of committees of this House to displace their chairman; and there were two strong objections to such a practice: 1st. That it implied, he would not say an insult, but it certainly amounted to a censure on the individual displaced. 2d. It was a bad practice, and ought to be resisted. "*Obsta principiis.*" And for what reason had it been resorted to? Because the chairman did not agree in politics, and was not on terms of confidential communication, with the Executive! It was dishonorable, it was degrading! What! Must the chairman of every standing committee of that body be in close intimacy with the executive Government, in opposition to other members of the House? Was that a doctrine for that House to sanction? The gentleman from Virginia [Mr. ARCHER] had retired from the head of the committee from considerations of delicacy, because he found himself differing in political views from the administration under which he had been placed at its head. That was a consideration for himself, and his own feelings of propriety. But what was demanded by the dignity of that House was another question. Where, he asked, was any rule of the House which required that the chairman of any of its committees must be on terms of intimate communication with the administration for the time being? He withstood such a principle. Especially did he withstand it in a case like the present, where a question of peace or war was involved. Nor was it the practice. He remembered a case where directly the reverse was true. Under the administration of Mr. Monroe, Mr. A. had happened to be placed at the head of the Department of State. The gentleman placed at the head of the Committee on Foreign Relations was any thing but a friend to the then existing administration. And so far from being in close habits of intimacy with the head of the State Department, the individual and himself were not on speaking terms; and the fact was well known to the Speaker who appointed him. The Speaker knew that the chairman could have no personal intercourse with the Secretary of State. The intercourse took place through another member of the committee. Yet Mr. A. had no idea of complaining of such an appointment; the thought never entered his mind that the Speaker had thereby done injustice to the administration. And no inconvenience whatever resulted from it: the public business went on just as well as if the chairman had been appointed by the President himself. Mr. A. would subscribe to no such principle. He wished the House, and he wished this nation, to consider what must be its natural effect. They had witnessed already too many attempts to introduce new principles there—principles

which were calculated to place that House at the feet of the Executive.

[Mr. ARCHER here stated that, for fifteen years previously to his having been placed at the head of the Committee on Foreign Relations, the chairmen of that committee had never been political friends of the administration, but just the reverse.]

Mr. ADAMS resumed. He was aware that the fact had been as his friend now stated it. The principle, he repeated, was wholly new, and its tendency was to prostrate the House at the feet of the Executive. The gentleman who had been placed by the present Speaker at the head of the Committee on Foreign Affairs, and who now did honor to another public station, had been, he knew, a friend of the present administration; nor did Mr. A. object to him on that account, but he should resist it as a rule that none others might be appointed. There was, or at least there ought to be, an *esprit de corps* in that body which felt for its honor. Mr. A. felt it: he hoped all the other members felt it too. He would have that body in fact what it was in theory—one of the most dignified assemblies in the world. He would have its members feel sensitively for their own honor, and not seek only to move in harmony with the Executive; not that he would have them oppose the administration of the Government. He had never advocated such a course. He held that neither assent or opposition to the Executive was an essential attribute in the character of a chairman of any committee.

Mr. A. said that the mere displacement of a colleague and personal friend had not been the cause of his now addressing the House; his determination to do so had been formed, not only without the recommendation or prompting of his colleague, but directly in opposition to his earnest remonstrance. He had formed the determination from the moment he had been informed (but not by his colleague) of what had been done in the committee. He had done so, first, because he considered it as proceeding directly against the true honor and dignity of that House, and next because the individual displaced had been his friend, and a colleague from the same State. He had acted from a regard to public principle. There had been nothing like concert with his colleague in the affair. It had seemed extraordinary to him that the committee should think themselves called upon to take such a step. The gentleman from New York [Mr. CAMBRELENG] was a minority chairman. He had been elected by four out of nine. This was not a majority, so far as he yet knew. Mr. A. concluded by saying that he would be satisfied if the House would indulge him by having the name of the chairman inserted on the journals. That would settle the question. To pass a resolution that the committee had not appointed any chairman, might be difficult. He wished the Speaker would settle who the chairman was.

Mr. LANE said that he was at a loss to understand the gentleman from Massachusetts. The gentleman professed himself unable to determine who was the chairman of the Committee on Foreign Affairs, and yet the drift of this resolution was to confirm the appointment of the individual chosen by the committee. The gentleman had told the House that that individual had been chosen by four out of nine, and that he was therefore a "minority chairman." Now, Mr. L. said he could conceive, that neither the gentleman from New York, [Mr. CAMBRELENG,] nor the gentleman from Massachusetts, [Mr. EVERETT,] had voted in the choice of chairman; and then the present incumbent must have had four votes out of seven. Mr. L. went on to say that there were certain gentlemen in that House who ought to feel great delicacy in bringing before it any complaints about an individual presiding, any where, by the votes of a majority. Such things had happened in this Government. In adverting to the fact, however, he intended no reflection on any gentlemen either in the House or out of it. Believing, however, the whole debate to have been a useless waste of time, which belonged to the public, he would move, with a view of ending it, that the motion of the gentleman from Massachusetts be laid on the table.

Mr. JARVIS expressed an earnest desire to speak, but the House manifested strong dissent.

Mr. REED asked that the question on laying on the table might be taken by yeas and nays; which were ordered.

Mr. JARVIS requested Mr. LANE to withdraw the motion, promising to renew it as soon as he had been indulged in a few words.

Mr. LANE consented, and withdrew the motion with that understanding.

Mr. JARVIS then observed that he had sought the floor merely that he might have an understanding of what had fallen from the gentleman from Virginia, [Mr. PATTON.] A word had fallen from that gentleman in the heat of debate, which he trusted had been uncalled for, and which, on a little cool reflection, he had little doubt that gentleman would qualify or withdraw.

The SPEAKER here interposed, and said the gentleman could not proceed.

Mr. JARVIS acquiescing,

The SPEAKER observed that the gentleman from Virginia had been called to order by the Chair, as soon as he had uttered the word in question, and the gentleman from Virginia had abstained from its repetition; which the Chair considered as tantamount to a retraction. No further notice of it could therefore be allowed.

Mr. PATTON, with great promptitude, declared that he had not retracted the word, nor would he retract it, until the gentleman from Maine did the same.

The SPEAKER again repeated that he had considered it retracted; and said he could not countenance such debate.

Mr. JARVIS renewed the motion to lay the motion of Mr. ADAMS on the table.

The question being put, it was decided by yeas and nays, as follows:

YEAS—Messrs. John J. Allen, William Allen, Anthony, Beale, Bean, Blair, Bockee, Boon, Bouldin, Brown, Burns, Carmichael, Carr, Casey, Chaney, Samuel Clark, Clay, Coffee, Connor, Cramer, Day, Dickerson, Dickinson, Dunlap, Ferris, Fowler, Wm. K. Fuller, Galbraith, Gillet, Gilmer, Graham, Grayson, Joseph Hall, Thomas H. Hall, Halsey, Hamer, Joseph M. Harper, Harrison, Hathaway, Hawkins, Hawes, Henderson, Howell, Hubbard, Huntington, Inge, Jarvis, R. M. Johnson, Noadiah Johnson, Benjamin Jones, Kilgore, Kinnard, Lane, Lansing, Laporte, Luke Lea, T. Lee, Loyall, Lyon, Lytle, Abijah Mann, J. K. Mann, Mardis, John Y. Mason, M. Mason, May, McIntire, McKay, McKim, McKinley, McLene, McVean, Miller, Robert Mitchell, Morgan, Muhlenberg, Osgood, Parks, Parker, Patterson, Pearce, Peyton, Pierce, Pierson, Pinckney, Plummer, Polk, Pope, Ramsay, Reynolds, Schenck, Schley, A. H. Shepperd, Shinn, Smith, Speight, Standefer, Sutherland, W. Taylor, F. Thomas, Thomson, Turrill, Vanderpoel, Wagener, Ward, Wardwell, Webster, Whallon, White, —109.

NAYS—Messrs. John Quincy Adams, Heman Allen, Chilton Allan, Archer, Banks, Barber, Barnitz, Barringer, Bates, Baylies, Beaty, Binney, Briggs, Burd, Burges, Bynum, Cage, Chambers, Chilton, Claiborne, William Clark, Clayton, Clowney, Coulter, Crane, Darlington, A. Davis, Davenport, Deberry, Denny, Dickson, Evans, H. Everett, Ewing, Felder, Fillmore, Foster, Philo C. Fuller, Gamble, Gholson, Gordon, Gorham,

Grennell, Griffin, Hiland Hall, Hannegan, Hard, Hardin, James Harper, Hazeltine, Heath, Hiester, William Jackson, Ebenezer Jackson, Janes, William C. Johnson, H. Johnson, King, Lay, Letcher, Lewis, Lincoln, Love, Lucas, Manning, Martindale, Marshall, McComas, McKennan, Mercer, Milligan, Miner, Moore, Patton, Phillips, Pickens, Potts, Reed, Rencher, Robertson, William B. Shepard, Slade, Sloane, Spangler, Steele, Wm. P. Taylor, Tompkins, Trumbull, Turner, Tweedy, Vance, Vinton, Watmough, Frederick Whittlesey, Williams, Wilson, Young—97.

So the motion of Mr. ADAMS was laid on the table.

Mr. MERCER now obtained the floor, and observed (so far as he could be heard by the reporter, in the confusion occasioned by an approaching adjournment, and the excited state of the House) that the remarks of the gentleman from Maine [Mr. JARVIS] did not necessarily require the construction which had been put upon them by his honorable colleague, [Mr. PATTON.] Under this persuasion, he had had a conversation with his colleague, who admitted that the Speaker had given him an opportunity to make a *retrazit*, but that he could not consent to do so, unless the gentleman from Maine first did the same, in reference to what he had said. That he had then had recourse to the gentleman from Maine, who stated that in what he had said he had had no intention of injuring the feelings of the gentleman from Virginia. Under this state of things, the remarks deemed offensive by his colleague of course fell to the ground. Mr. M. said he was happy in being able to make this communication to the House.

The House thereupon adjourned.

THURSDAY, JANUARY 22.

ALLOWANCES TO POST OFFICE COMMITTEE.

The House resumed the consideration of the following resolution, heretofore offered by Mr. R. M. JOHNSON, the adoption of which was reconsidered by the House:

"*Resolved*, That the committee on the contingent expenses of the House be directed to audit the accounts of the members of the committee appointed by the House of Representatives on the 26th day of June last, for investigating the condition and proceedings of the Post Office Department, at the rate of compensation paid to the committee for preparing a code of laws for the District of Columbia, of which Philip Doddridge, Esq., was chairman, viz: eight dollars per day during the recess, without any other allowance."

When the resolution was last before the House, the following amendment was proposed by Mr. MANN, of New York:

Strike out all after the word resolved, and insert:

"That the Committee of Accounts of this House be directed to audit the accounts of the members of the committee appointed by this House on the 26th day of June last, for investigating the condition and proceedings of the Post Office Department, and allow each member of such committee at the rate of eight dollars per day, (including a reasonable time for their travelling respectively to the seat of Government,) during the time they have actually been engaged at the Post Office Department, up to the commencement of the present session."

To which latter proposition Mr. GILLET moved the following amendment:

"And that those who came to Washington on said business, and returned home before the commencement of the present session of Congress, be allowed their extra travel and their per diem allowance while attending on said committee, and no more."

Mr. LANE said he had been surprised to hear a difference of opinion expressed by honorable members of the House, upon the subject of compensating the committees appointed at the last session to investigate the Post Office Department in the recess of Congress.

That to his mind a plainer proposition could not be presented to the human understanding for decision. The committee are members of this House; as such they were appointed to perform duties properly belonging to this House; as such will be their report, and as such ought to be their pay.

This admitted, and the question is determined. Suppose Congress had adjourned to meet in October. The travel and the pay would have been the same, except the per diem from October to the first Monday in December. Will any gentleman attempt to distinguish the one from the other? The committee convened in October, and continued their labors until the meeting of Congress. To pay them eight dollars per day from the time they respectively entered upon the duties assigned them, to the first Monday in October, is to pay them as members of Congress—all they have a right to expect, all they deserve, and all this House has the power under the law to allow.

The members of this committee, like every other member of this House, received their travelling pay to and from this capital, before or at the close of the last session. They will now, if not already done, draw their pay a second time.

And is there an honorable gentleman on this floor who really believes the members of this committee will have necessarily travelled the road to and from their respective places of residence more than four times. If not, for this they have or will receive eight dollars for every twenty miles; to pay them more would be to pay them for travelling expenses never incurred; to pay them other than for every day they have devoted to the public interest as members of the committee, would be to pay them for services never rendered.

That his honorable friend upon the right, from Kentucky, [Colonel JOHNSON,] had said he would pay the committee from the close of the last to the commencement of the present session. That his constituents were intelligent, patriotic, and bold, and would sustain him in rewarding the public servants generously.

Mr. L. said while he fully acquiesced in the praises his friend from Kentucky [Colonel JOHNSON] had been pleased to bestow upon his constituents, he felt justified in claiming for himself the honor of representing a people equally intelligent, patriotic, and bold, and at the same time more enterprising and industrious. That while he has no doubt they would sustain him in patronizing a just and adequate compensation to every public servant, he should consider he was paying a poor compliment to their intelligence and patriotism, could he entertain, much less express, the belief they would or ought to sustain him, should he vote for paying any one in or out of this House for travelling expenses never incurred, for services never performed, or for time in no wise devoted to the public interest. Pay the committee, like every other member in the House, eight dollars for every twenty miles coming to and returning from this city, at each session, and for each day, upon the committee or in this House, and no more. For that purpose he sent an amendment to the Chair.

The amendment of Mr. LANE was then read, as follows:

Strike out all after the word Department, and insert:

"By allowing to each member of said committee eight dollars per day from the time said committee met at Washington until the commencement of the present session."

Mr. MANN, of New York, was willing to accept the proposition of the gentleman from Indiana.

The amendments proposed by Messrs. MANN and GILLET were negatived.

The question recurring upon Mr. LANE's amendment, Mr. PARKER moved to amend it by adding "the usual allowance of mileage to Washington city."

Mr. PARKER was of opinion that the members of this committee should receive something beyond the ordinary allowance. They were compelled to leave their business at home unattended to. There were members residing at a distance, particularly in the South, who, as a matter of choice, remained in this neighborhood, and who did not go home at the close of the session, who were nevertheless paid their mileage. The Post Office Committee were here in the recess by the direction of the House. Their duties were arduous, and he hoped that the amendment submitted by him would prevail.

Mr. LANE suggested that the members of this committee, as a matter of course, would receive the usual allowance for mileage. He was opposed to giving them double the amount provided by law.

M. PARKER's amendment was disagreed to.

Mr. BEAUMONT moved to amend the amendment of Mr. LANE, by adding the words "and no more;" which was negatived.

The amendment submitted by Mr. LANE was then concurred in, and, thus amended, the resolution was agreed to.

INDIAN RESERVES.

The House proceeded to consider the following resolution, heretofore offered by Mr. MCCARTY:

"*Resolved*, That the President of the United States be requested to transmit to this House copies of all letters and correspondence of all Indian agents and sub-agents, and other persons connected with the Indian department, now in the executive or War Departments, or in the office of the Commissioner of the General Land Office, connected with, or relating to, the survey, location, sale, and transfer of all Indian reserves of lands since the year 1825, up to this time; and also all the orders and communications from the Executive of the United States through the War Department or General Land Office, or otherwise, in reference to said surveys, locations, sales, and transfers of Indian reserves, together with maps and plats of said surveys, and of the tracts approved and confirmed by the President under said transfers and sales, and what remains unapproved that have been reported and submitted for his approval, together with the evidence of title."

Mr. MCCARTY spoke at some length in support of the proposition, when

Mr. PLUMMER moved the following amendment:

"Not already communicated to the Senate under resolutions of that body adopted at the last session."

Before the amendment was disposed of, Mr. POLK called for the orders of the day, which was sustained by the House.

THE GENERAL APPROPRIATION BILL.

The House resumed the consideration of the appropriation bill for the civil and diplomatic expenses of Government for the year 1835, with the amendments reported from the Committee of the Whole. The amendments were read and considered in order, concurred in until the House arived at the item "for allowances to the law agent, assistant counsel, and district attorney in Florida."

Mr. POLK moved to amend this item so as to allow the law agent to receive a share of the appropriation.

Mr. WHITE assented to this.

Mr. POLK opposed the whole amendment as modified, but the House refused to strike it out.

On the last clause of the amendment, containing a proviso that the compensation should not be paid till all the cases in litigation had been disposed of,

Mr. GRENNELL requested further information.

Mr. WHITE, of Florida, replied at length, taking the same ground he had done in committee, insisting that the continuance of these cases before the courts was highly injurious to the interests of the Territory, and appealed to past experience to show that the existing delay was causeless, and its removal hopeless, unless some such proviso should be adopted. All the principles of the causes pending had been decided already by the Supreme Court of the United Staies, and the settlement of the Territory was prevented by continuing these causes at a vast expense from year to year, for six years, though there were but eighty or ninety cases in all.

Mr. POLK objected to the proviso, as involving an injurious imputation on the integrity of public agents. He was personally acquainted with two of the individuals, than whom he knew no men of more honorable and unblemished character. He thought the proviso would work injustice.

The question being put, the proviso was not concurred in.

On the subject of appropriations for chargés d'affaires, Mr. POLK stated that the appropriation made last year for a chargé to Buenos Ayres remained still in the treasury, and had not been devoted to any other purpose. The item in the estimates had been suffered to remain by inadvertence.

The amendments from the Committee of the Whole having been gone through with,

Mr. POLK moved to amend the bill by inserting an item of $500, for survey of lots in Peoria, Illinois; which was agreed to.

Mr. MERCER explained why he did not renew the motion he had made in committee, for an item to carry into effect the provisions of the law for the suppression of the slave trade; he was informed that there remained a balance of $14,000, from moneys formerly appropriated to that object. He nevertheless expressed strong dissatisfaction at the fact, that the coast of Africa was left without a single ship of war, while other portions of our fleet were occupied in vain parade in the Mediterranean.

Mr. VANCE moved the following amendment:

SEC. 2. *And be it further enacted*, That all that part of the second section of an act entitled "an act making appropriations for the civil and diplomatic expenses of Government for the year 1834," that authorizes the Secretary of the Treasury to pay to the collectors, naval officers, surveyors, and their respective clerks, together with the weighers of the several ports of the United States, out of any money in the treasury not otherwise appropriated, such sums as will give to the said officers respectively the same compensation in the year 1834, according to the importations of that year, as they would have been entitled to receive if the act of the 14th of July had not gone into effect; and that the clerks employed by the respective collectors, naval officers, and surveyors of the several ports, shall be paid for the year 1833, as if they had been specifically included in the third section of the act of 2d March, of said year, entitled "an act making appropriations for the civil and diplomatic expenses of Government for the year 1834," be, and the same is hereby, repealed; and that the balance of the said second section of the above-recited act of 1834 be, and the same is hereby, continued in force, until otherwise ordered by Congress.

Mr. V. supported his motion, alleging that great abuses existed under the section in question. If the House wished custom-house officers to receive larger compensation, let them do it explicitly, and not allow a state of things under which those officers had received,

within the last year, $50,000 over what the law allowed them. Some of the weighers and gaugers received salaries, amounting in fact to about $4,000. Mr. V. demanded that the question be taken by yeas and nays.

Mr. POLK explained why no item on the subject referred to had been inserted in the bill. The subject had been referred last session to the Committee of Commerce. He heard the amendment imperfectly, but understood it to amount in effect to what the same gentleman had moved at the last session, and which was rejected by the House. He called for the reading of the amendment again.

It was read accordingly.

Mr. POLK called for the reading of that part of the act of 1834 which was proposed to be repealed.

This was also read.

Mr. POLK then called for the reading of the residue which Mr. VANCE proposed to re-enact.

This was read. [It limits the salaries of subordinate officers of the customs, except collectors, naval officers, and surveyors, to $2,000 per annum, &c., and requires returns of receipts under oath.]

Mr. POLK said that, unless the Committee of Commerce had prepared a bill, the portion of the law of 1834, which he proposed to strike out, ought to be retained.

Mr. SUTHERLAND (chairman of the Committee of Commerce) stated what had taken place last year on this subject. The amendment went to retrace the course of the House, and send again the vexed question of the custom-house law to the Senate. The committee had received from the Secretary of the Treasury a projet of a law, but they had not yet been able to make up a decision as to the reporting of a bill. The difficulties attending the subject were many and great. He thought it would be best to re-enact the second section of the act of 1834, and wait for subsequent action by the Senate or House to modify its provisions. He hoped the amendment of Mr. VANCE would be rejected.

Mr. VANCE stated what had occurred last year on the subject. The gentlemen from Pennsylvania, [Mr. SUTHERLAND,] and from New York, [Mr. CAMBRELENG,] had admitted that further legislation was necessary; but nothing had been done, or would be, until the section was repealed; then, he would venture to predict that immediate action would ensue. He stated how the Senate had been annoyed at the last session, by applications from swarms of custom-house officers, who were in dread of the ceasing of the existing system. It was high time the abuse should cease.

Mr. FILLMORE thought it would be awkward to adopt the amendment in its form as moved. It would be better to repeal the whole section of the act of 1834, and then re-enact the latter part separately. He doubted if the section expired with that year.

Mr. SUTHERLAND insisted the act of 1834 did expire with that year. He was willing to limit the lower salaries to $2,000, as proposed; but the amendment would operate, in fact, to repeal an act not in force. It was better to let the bill, as reported, go to the Senate. If any amendment was necessary, they would insert it. He deprecated a renewal of the long and stormy debate of last year.

Mr. POLK suggested that the Committee of Commerce in both Houses had this subject before them under communications from the Treasury. It was better to let this bill pass as it stood, and wait for the action of the other House. The clause in the act of '34 certainly did expire with that year, and there could be no need to repeal it. He requested Mr. VANCE to withdraw the amendment.

Mr. GILLET explained why the Committee of Commerce had not yet reported a bill: many of the members were actively engaged in collecting facts bearing on the subject; but this was a work of time. If no general law could be prepared, it would be easy to insert a clause providing for the officers named in the amendment.

Mr. HARPER agreed that the subject did not properly pertain to an appropriation bill. He was surprised the Committee of Commerce had made so little progress in so important a subject. The Department had early sent the form of a bill, accompanied with statements relating to the subject generally. He stated the abuses under the old law. Some of the officers received in fact near $10,000 a year, though they could leave their places for weeks together, watching the legislation of this House. He explained the origin of the act of 1832; the unexpected augmentation of fees on articles free of duty, and the injustice and waste of public money which ensued. He concurred in the proposal of the chairman of the Committee of Ways and Means.

Mr. FILLMORE proposed a slight modification of Mr. VANCE's amendment, which

Mr. VANCE accepted.

Mr. FILLMORE advocated the amendment, insisting that precedents proved that this subject did pertain to the appropriation bill; and it was especially necessary, as there seemed little prospect of any bill from the Committee of Commerce in time to be passed at this session. He argued to show that the law of 1834 might possibly receive a construction which would continue it in force. It was best to guard against this by repealing the law. He stated that nearly a third of the revenue had been expended in paying for its collection—(he corrected himself as to this ratio—it was at least over ten per cent.) He was opposed to leaving the subject for the action of the Senate.

Mr. CAMBRELENG stated that the act of 1832 took away the fund out of which the custom-house officers were paid; and it had been necessary to provide for these year by year. He opposed the amendment.

Mr. SUTHERLAND stated that the accounts had not been settled up yet, and the amendment would therefore have no good effect. He had been in favor of paying these officers, but of limiting their compensation. He was for sending the bill to the other House (where the Committee of Commerce had prepared no bill yet) and let them add a clause. He was willing to add what was passed last year; but that would require to go again into Committee of the Whole. If this course was not pursued, and no general bill should be reported, it would be easy to pass a provision for the officers for the present year.

Mr. VANCE referred to the report of last year, which showed that the officers, by extra allowance, received nearly double what the law gave them. Wishing to have this report before him, he would move an adjournment. The appropriation bill required ripe consideration.

The House refused to adjourn: Ayes 63, noes 76.

Mr. FILLMORE proposed a further modification of the amendment, as follows:

Strike out all after the enacting words, and insert:

"That the second section of the 'act making appropriations for the civil and diplomatic expenses of the Government for the year 1834,' is hereby repealed."

Mr. VANCE accepted it, and then went into a statement of what had been done between the two Houses in reference to this portion of the appropriation bill last year. He denied the statement of Mr. CAMBRELENG, that Congress had abolished the fund for the payment of these officers; it had been absorbed by the enormous multiplication of subordinate officers of the customs.

Mr. CAMBRELENG explained. He meant that Congress had abolished the duties out of which the officers were paid.

Mr. VANCE resumed—urging his objections to the present rates of compensation, as in fact paying men for duties not performed.

Mr. SUTHERLAND denied that the officers could not receive their extra compensation under the bill as reported.

Mr. HARPER, of Pennsylvania, stated the opinion of the chairman of the Committee of Finance in the Senate, that the bill of 1834 expired with that year. There was a system of management which was fast emptying the treasury. He was indifferent that any law should be passed: if none were passed, things would revert to their old state, and the officers would be paid only for duties actually done.

Mr. MINER thought if the law of 1834 was not in force the present amendment was unnecessary. There ought to be a general and explicit law. The friends of the amendment were, in fact, counteracting their own views, for the law of '34 was dead. It was best to let it alone. Re-enacting a part of the law would only tend to continue the evil. He protested against legislating in haste on such a subject.

Mr. WILLIAMS, wishing for further time, moved an adjournment; but withdrew it at the request of

Mr. WATMOUGH, who wanted to move some printing.

The House refused to consider this; and Mr. WILLIAMS renewed his motion to adjourn.

Mr. PARKER asked for the yeas and nays; they were ordered, and stood as follows: Yeas 100, nays 83.

So the House adjourned.

FRIDAY, JAN. 23.

INDIAN RESERVES.

The House resumed the consideration of the following resolution, heretofore offered by Mr. McCARTY:

"*Resolved*, That the President of the United States be requested to transmit to this House copies of all letters and correspondence of all Indian agents and sub-agents, and other persons connected with the Indian department, now in the executive or War Departments, or in the office of the Commissioner of the General Land Office, connected with, or relating to, the survey, location, sale, and transfers of all Indian reserves of lands since the year 1825, up to this time; and also all the orders and communications from the Executive of the United States through the War Department or General Land Office, or otherwise, in reference to said surveys, locations, sales, and transfer of Indian reserves, together with maps and plats of said surveys, and of the tracts approved and confirmed by the President under said transfers and sales, and what remains unapproved that have been reported and submitted for his approval, together with the evidence of title."

The question being on the motion of Mr. PLUMMER, to amend the resolution by adding a proviso, that none of the documents should be communicated which had already been communicated to the Senate under a resolution of that body adopted at the last session:

Mr. PLUMMER stated that the papers called for in this resolution, had been also called for and ordered to be printed by the Senate. The copies cost, in extra clerk hire, about three thousand dollars; the printing, which was not yet completed, would cost $12,700, and the binding $3,206. The documents would form six volumes, costing altogether about $19,000, and every member of the House would be furnished with two copies of it. This resolution, (Mr. P. said,) if it passed in the original form, would embrace the same documents, and cost twice as much.

He moved to postpone the further consideration of the resolution till Monday, in order to afford time for investigating the subject.

Mr. McCARTY said that, to avoid the necessity of a postponement, he would accept the amendment as a modification.

Mr. PLUMMER was still, he said, in favor of a postponement, in order that the subject might be further examined. If the gentleman wanted the correspondence in relation only to his own State, he had better so modify the resolution.

The motion to postpone was rejected without a count.

Mr. CLAY thought, he said, that it was unnecessary to adopt the resolution. If any individual wished information on the subject, there were laws which pointed out the mode in which it could be obtained under the seal of the office. He moved to lay the resolution on the table; on which motion the yeas and nays were ordered.

The question being taken, it was decided in the negative: Yeas 101, nays 108.

Mr. PLUMMER moved that the House proceed to the orders of the day; which was negatived: 71 to 83.

Mr. POLK called for the yeas and nays on the passage of the resolution, and they were ordered.

Mr. McKINLEY saw no reason, he said, for going to so much expense, on the mere suggestion of a suspicion of fraud in the management of Indian affairs, for the gratification of any individual or neighborhood.

Mr. McCARTY said that the expense had been greatly overrated. It would not cost, he was persuaded, the fourth part of the sum which had been named. But, if it did cost the whole amount, it was no objection to the proposed call. It was generally believed that some frauds had been practised, and the consideration of expense ought not to deter the House from the investigation even of a suspicion of fraud on the part of the agents of the Government. He did not impute any fraud to any of those agents, but he contended that an investigation was proper, and highly important.

Mr. McKINLEY said, if frauds were to be made the subject of inquiry, the documents might be produced as evidence before those who undertook the inquiry. But he did not understand the resolution as proposing any inquiry. The publication of the documents would not remove the suspicion of fraud from the public mind, if any such suspicion existed, nor would it punish the perpetrators, if any should be discovered. If any frauds had been practised in regard to Indian reservations—he knew of none, though he had heard rumors of them—he would be glad to have them exposed and punished. But was this a mode of securing their punishment? The publication of the correspondence would serve no purpose but the gratification of an idle curiosity. If the gentleman from Indiana would modify the resolution so as to propose an investigation of alleged frauds, he would vote for it.

Mr. BYNUM said he would be the last person in the House to oppose a call for papers, the publication of which could result in any benefit to the public. But, after this correspondence was obtained and printed at the expense probably of twenty thousand dollars, scarcely a member of the House would read it. To investigate a fraud, in any branch of the Government service, he would go to the expense of millions, if necessary; but the resolution specified no frauds as having been committed; provided for no investigation of any alleged frauds; but merely called for a voluminous correspondence, the publication of which would benefit no one but the public printer.

Mr. LANE said it might be seen, at the first glance, that the object of the resolution, so far as it was intended to expose suspected frauds, could not be attained. No one could suppose that the perpetrators of those

frauds would be so simple as to spread them out in their public correspondence. The proper way of investigating and punishing frauds was through the instrumentality of courts of justice. If the Executive or any of the Government agents were suspected of fraud, there was a ready way of procuring an investigation of the facts. If a specific call was made for an inquiry into any alleged fraud, he would support it. He had taken occasion to call at the office of the commissioner, and had ascertained that the copies called for would occupy several clerks till the end of the session.

Mr. BROWN called for the orders of the day, but the Chair pronounced the motion to be out of order, as there had been no action of the House since the same motion was rejected.

Mr. LOVE said that the gentleman from Alabama acknowledged that there were rumors abroad of the perpetration of frauds in the management of Indian affairs. It was true that no particular fraud had been specified, that no indictment had been found; but he thought himself that the suspicion and allegation of frauds ought to be inquired into. He did not suppose, nor charge, that the administration was in any way connected with the frauds referred to. In fact, he knew, as a member of the Committee on Indian Affairs, that great frauds had been practised, which the Government could not possibly have had knowledge of nor prevented. He had no sinister motive in urging this call, and nothing could be further from his object than to make a job for printers, for they were a sort of people with whom, as the press was now managed, he had nothing to do.

Mr. MARDIS said the resolution did not present the course which was proper to be taken, for the purpose of investigating frauds. If any agent of the Government was suspected of fraudulent practices, it struck him that the proper mode of procedure would be to raise a committee to investigate the subject. He presumed that those who committed the frauds would not expose them in their correspondence. The expense of the call could not enter into the consideration of this question; but it was to be considered whether the object of the resolution was approached in a proper manner. If it was in order, he would now move to amend the resolution, so as to provide for the appointment of a select committee, to investigate the alleged frauds, with power to send for persons and papers, to sit during the recess, and report at the next session of Congress.

Mr. LOVE said he would move to commit the resolution to the Committee on Indian Affairs, for the purpose of examination.

Mr. McCARTY said he should not oppose the proposition. He disclaimed all intention of accusing the officers in this city of any malfeasance, but said he should pursue his own objects, in his own way, without consulting any man.

Mr. MARDIS explained.

Mr. McCARTY disclaimed all intention of reflecting on the Executive; but he wished to expose the conduct of false friends, who, under the covert of the name of the President, perpetrated frauds on the country. He was astonished that gentleman on that floor should seem opposed to such an exposure. He wanted to shield the innocent as well as to detect and expose the guilty.

Mr. BARRINGER was in favor of an investigation: strange rumors were afloat, which ought to be proved or disproved. He would put a hypothetical case: suppose a company was formed to purchase Indian reservations; one subscribed $10,000 in cash, others pledged services, and others influence in this body, to get the sales confirmed. If such a combination did exist, it ought to be exposed. Did not gentlemen know that opposition to such a measure would subject their course to the imputation of a desire to screen the guilty?

If the resolution was not broad enough, let it be extended, till it covered the whole ground. He thought the House had been negligent in investigating charges against public officers connected with the sale of the public domain. It had suffered rumors and charges of the most disgraceful kind to continue for years, without examination into their truth. As to the mere consideration of expense, was the House to stop and calculate this when a delinquent was to be brought to justice? Was such a thing ever heard of in a court of justice? It was not to receive a *quid pro quo* in money, but to expose the guilty and deter evil doers. While the House refused to investigate, they held out encouragement to all such designs. How would it sound in the ears of the guilty to hear it urged in noon day, before the assembled Representatives of the nation, that their exposure would cost the country some money? He trusted no weight would be allowed to an argument of that description; but that on great public grounds an investigation would be ordered.

Mr. POLK now demanded the orders of the day, and the question being put, the House refused the motion: Ayes 79, noes 94.

Mr. MILLER repelled the insinuation that members opposed to this measure were desirous of screening men in malfeasance. He should, however, himself vote in favor of the resolution.

Mr. EWING had risen to speak, when

Mr. BOON moved the previous question; but the House refused to second it.

Mr. EWING advocated the resolution as originally moved. He contrasted the ready acquiescence of gentlemen in other investigations, and their sensitive opposition as soon as it was proposed to reach the land speculators. He stated some facts of which he had heard, going to show favoritism and corruption in the officers connected with certain land offices. As to punishment, if the House could effect nothing, the mere exposure before the public would be of itself a punishment of the severest kind. This Government is, or has been, a Government of the people; and for their instruction, if for no other reason, the resolution should be adopted. But he believed, without saying any thing accusatory, the action of the House would be found proper as soon as the documents called for were read. He would not argue upon, because he did not credit many rumors—"rumor is a pipe blown by surmises"—but he would say this inquiry is founded upon a more substantial basis. He knew of a case wherein judicial powers were involved, which the Executive had decided: a title acquired to a reserve by fair sale under an execution, the sale conducted in conformity to the laws of the State of Indiana, had been refused the assent of the President, when private sales of similar reserves were sanctioned. If the resolution be sent to the Committee on Indian Affairs, he hoped it would command speedy action. He wished the information to go forth to the people—it will correct error and establish truth.

Mr. CAGE spoke with warmth in vindication of that portion of the Union which he represented, from what he considered the breath of calumny. He courted the proposed investigation, and hoped it would take the very widest form. He complained that no charges could be preferred against any officer of the Government, but it was interpreted into an attack on the administration, who, he was persuaded, were as far from sanctioning or tolerating fraud or malfeasance in its officers, as any others could be.

Mr. ASHLEY opposed the resolution, as covering too much ground. With a view to get at a few individuals suspected of impropriety, was it right to examine five hundred others? The inquiry as proposed was so extensive that no result of it might be expected during the

present session, and at the next Congress it would be no more thought of. Let the inquiry be confined to the individuals suspected, and aimed at once at them. Mr. A. said he was as friendly to Indians as any other man, but he believed that their intelligence was much underrated; and that in most land treaties they got the better side of the bargain.

Mr. HAMER explained why he and others had voted to lay this resolution on the table. No gentleman in that House could desire to screen public agents in malfeasance, nor to prevent the investigation of their conduct, provided reasonable ground of suspicion was exhibited against them; but there could be no need of going back into all transactions in our land offices for ten years. Why did not gentlemen tell the House in what State the supposed frauds had taken place, and in what year they had happened? Let something explicit, something tangible be presented, and he would support the resolution.

Mr. BYNUM explained his former remarks, which he supposed had been misunderstood by Mr. LOVE. He would never urge the question of expense as an objection to investigation, where there were reasonable grounds of suspicion; but otherwise he always should. Let the gentleman exhibit a specific charge, and no man would go farther in bringing it to a full and fair investigation. It never had appeared that the pending resolution had for its object to expose fraud, till the gentleman [Mr. LOVE] had let it leak out; now, that object was avowed by the mover. Let him move for a select committee, and point out a specific object, and nobody would oppose it. But as to mere idle rumor, got up very possibly for political effect, he would never make that the ground of investigation. The nation had had enough of that matter. They were satiated with it.

Mr. LANE said that, since the resolution had received its present direction, he approved and would vote for it. He passed a very high compliment on the integrity of the people of his own State, who were all, he said, high-minded, honorable, and utterly incapable of fraud of any kind.

Mr. McCARTY explained to Mr. BYNUM, reminding him that he had expressly stated that he did desire the investigation with a view of detecting frauds.

Mr. PLUMMER explained why he had moved to postpone the resolution. He was in favor of sending it to the Committee on Indian Affairs, and hoped that motion would prevail. Mr. P. referred to the investigation which had been ordered in the Senate, and the rigid and searching manner in which it had been made in Mississippi. The returns, he understood, were in the hands of the printer, and would soon be laid before the public. The investigation had cost the blood of one of their most valued citizens.

Mr. BOON said something about moving instructions to the committee, but the motion was premature.

The question being put, the resolution was referred to the Committee on Indian Affairs.

The House then proceeded to the orders of the day.

Sundry bills from the Senate were twice read, and committed; and

Several engrossed bills were read a third time, and passed.

RICHARD W. MEADE.

The bill for the relief of R. W. Meade, &c., having been announced,

Mr. POLK moved to resume the consideration of the appropriation bill for the civil list.

Mr. ASHLEY and Mr. VANCE opposed the motion. The information Mr. V. desired had not been received; if the motion was pressed, he should be obliged to urge the amendment he had proposed.

After some conversation of a desultory kind, the House refused the motion of Mr. POLK, and consented to the urgent request of Mr. R. M. JOHNSON, by proceeding to consider a bill for the relief of

COLONEL JOHN EUGENE LEITENSDORFER,

And went into Committee of the Whole on the state of the Union, (Mr. PATTON in the chair,) on that bill. It was passed through committee without debate, read a third time in the House, and passed.

After taking up, and ordering to a third reading, the bill for the relief of Colonel Thomas Buford,

The House adjourned.

SATURDAY, JANUARY 24.

MEDAL TO GENERAL MORGAN.

Mr. E. EVERETT from the select Joint Library Committee, reported a joint resolution in effect authorizing Morgan Neville to have re-struck, from the original die, a medal, similar to the one presented by Congress to General Morgan, which had been stolen, and which was supposed to have been melted down.

The resolution having been read a first and second time,

Mr. EVERETT stated that the medal referred to was presented by Congress to General Daniel Morgan, who bequeathed it to the memorialist, Morgan Neville. The memorial of Mr. Neville (upon which this report was founded) set forth that the medal was stolen from a bank in Pittsburg, some years ago, and that all attempts to recover it had failed. The medal was of gold, very highly valued by the family, and was stated to be worth, intrinsically, thirty-one guineas. The memorialist asks that a new medal may be struck for him from the original die, which is, or ought to be, at the mint, in Philadelphia. He did not ask that this should be done at the expense of the Government; though, under all the circumstances, he (Mr. E.) would be willing that it should be done at the public expense. But, as it would be necessary to commit the resolution in that case, which would delay and endanger its passage, he had preferred to move its engrossment in its present form.

The resolution was then ordered to be engrossed for a third reading.

Mr. J. Q. ADAMS, from the select committee to which was referred the bill from the Senate in relation to the establishment of the boundary line between the States of Ohio, Indiana, and Illinois, reported the same without amendment, and with the recommendation that the House do not pass it.

THE JUDICIARY.

The following resolution, heretofore offered by Mr. HAMER, proposing an amendment to the constitution, was taken up for consideration:

"*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of amending the constitution of the United States, so as to limit the service of the judges of the Supreme and inferior courts to a term of years."

The question being on the amendment offered by Mr. VANCE, directing an inquiry also into the expediency of amending the constitution, so as to prevent the President of the United States from removing any person from office without the assent of the Senate of the United States,

Mr. ALLEN, of Ohio, remarked that his colleague, the mover of the resolution, was absent, and he therefore asked that the resolution might lie over.

Mr. GAMBLE said he wished to move a substitute for the resolution, by way of amendment.

The CHAIR stated that the motion would not be in order, as an amendment was pending.

On motion of Mr. ALLEN, of Ohio, the further consideration of the resolution was then postponed till Monday.

VIVA VOCE ELECTIONS.

The House then, in the order of business, resumed the consideration of the following resolution, offered by Mr. REYNOLDS:

"*Resolved*, That hereafter, in all elections made by the House of Representatives, (for officers,) the votes shall be give *viva voce*, each member in his place naming aloud the person for whom he votes."

Mr. CROCKETT moved that the resolution be laid on the table.

Mr. REYNOLDS called for the yeas and nays on this motion, and they were ordered.

Mr. REYNOLDS also moved a call of the House; which was ordered.

The call having been made, 178 members answered to their names.

Mr. GAMBLE moved a suspension of all further proceedings in the call.

Mr. MILLER sked the yeas and nays on this motion, and they were ordered.

Mr. GAMBLE withdrew the motion.

The absentees being then called, it appeared that forty-five members were absent, for whom no excuses were made.

Mr. EVANS moved a suspension of the call, as the morning hour had expired, and this was a day set apart for the consideration of private business.

Mr. McKINLEY asked for the yeas and nays on this motion; which were ordered—and Mr. EVANS withdrew the motion.

On motion of Mr. WILLIAMS, it was ordered that the members in attendance be admitted.

Mr. R. M. JOHNSON moved a suspension of the call.

Mr. CROCKETT said he hoped that the House would not proceed to vote on the resolution under consideration, without affording to every member of the House an opportunity to record his vote. It was a proposition to alter an old established principle of our fathers. He called for the yeas and nays on the mottion, and they were ordered; whereupon,

Mr. JOHNSON withdrew the motion to suspend the call.

The absentees were again called, when it appeared that there were now present in the House 197 members.

Mr. JOHNSON again moved a suspension of the call; but the yeas and nays being ordered upon it, he withdrew it.

Mr. TURRILL moved an adjournment, which he withdrew, the yeas and nays having been ordered upon it.

Mr. HARPER, of New Hampshire, moved a supension of the call.

Mr. CROCKETT asked the yeas and nays on the question; which were ordered.

Mr. POLK asked if the messengers had been sent for the absent members.

The CHAIR replied in the affirmative.

Mr. ASHLEY asked if it was in order to call for the orders of the day.

The CHAIR stated it was not, in the present state of the question.

The question was then taken, by yeas and nays, on the motion to suspend the call, and decided in the negative: Yeas 95, nays 109.

The absentees were again called over, when, on motion of Mr. ANTHONY, the call was suspended, without a count.

The question recurring on the motion of Mr. CROCKETT, to lay the resolution on the table,

Mr. A. H. SHEPPERD called for the orders of the day.

Much opposition being manifested to this motion, by cries of "no," "no,"

Mr. CROCKETT asked for the yeas and nays on the motion; and they were ordered.

The question being then taken on the motion to proceed to the consideration of the orders of the day, it was decided in the negative: Yeas 64, nays 146.

The question being then taken on the motion to lay the resolution on the table, it was decided in the negative, as follows:

YEAS—Messrs. John Quincy Adams, Heman Allen, Chilton Allan, Ashley, Banks, Barber, Barnitz, Barringer, Bates, Baylies, Beaty, Bell, Binney, Briggs, Bull, Bunch, Burges, Cage, Campbell, Carmichael, Chambers, Chilton, Wm. Clark, Clayton, Clowney, Corwin, Crane, Crockett, Davis, Davenport, Deberry, Denny, Dickson, Dickinson, Evans, Ewing, Felder, Fillmore, Forester, Foster, Fulton, Gamble, Gholson, Gilmer, Gorham, Graham, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Hiester, Inge, Wm. Jackson, Ebenezer Jackson, Janes, Wm. C. Johnson, Henry Johnson, S. Jones, King, Lea, Letcher, Lewis, Lincoln, Love, Martindale, Marshall, McCarty, McKennan, Mercer, Milligan, Miner, Moore, Peyton, Phillips, Pickens, Pinckney, Potts, Reed, Rencher, Shepard, Shepperd, Slade, Sloane, Spangler, Steele, William P. Taylor, Philemon Thomas, Tompkins, Trumbull, Tweedy, Vance, Vinton, Watmough, Frederick Whittlesey, Wilde, Williams, Wilson, Young —102.

NAYS—Messrs. John Adams, John J. Allen, William Allen, Anthony, Archer, Beale, Bean, Beardsley, Beaumont, Blair, Bockee, Boon, Bouldin, Brown, Burns, Bynum, Cambreleng, Carr, Casey, Chaney, Chinn, Claiborne, Samuel Clark, Clay, Coffee, Coulter, Cramer, Day, Dickerson, Dunlap, Ferris, Wm. K. Fuller, Galbraith, Gillet, Gordon, Joseph Hall, Thomas H. Hall, Halsey, Joseph M. Harper, Harrison, Hathaway, Hawkins, Heath, Henderson, Howell, Hubbard, Huntington, Jarvis, R. M. Johnson, N. Johnson, B. Jones, Kavanagh, Kilgore, Kinnard, Lane, Lansing, Laporte, T. Lee, Loyall, Lucas, Lyon, Lytle, A. Mann, Joel K. Mann, Manning, Mardis, J. Y. Mason, M. Mason, May, McComas, McIntire, McKay, McKim, McKinley, McLene, McVean, Miller, R. Mitchell, Morgan, Murphy, Osgood, Parks, Parker, Patton, Patterson, D. J. Pearce, F. Pierce, Pierson, Plummer, Polk, Pope, Ramsay, Reynolds, Robertson, Schenck, Schley, Shinn, Smith, Speight, Standefer, Sutherland, F. Thomas, Thomson, Turner, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Webster, Whallon—113.

The question being on the adoption of the resolution—

Mr. FILLMORE said that he had been unfortunately detained upon his committee until after the meeting of the House, and had not heard what had passed. He then asked the Clerk to read the resolution; which being read, he then said, this resolution seems to involve some new and important principles, and, since its introduction, I have found little leisure to reflect upon or investigate them. From the little consideration, however, which I have been able to give this subject, I am induced to believe that an appointing power, vested in a legislative body, may be divided into two kinds. One is that exercised by every legislative body in appointing its own officers, whose power and authority are limited entirely to the body which appoints them, and who exercise no general jurisdiction or authority whatever over the rights of the citizen. The other is that often conferred upon, and exercised by, the Legislature, in appointing officers for the nation or State. The former may, with equal propriety, be exercised either by ballot or by an open nomination, *viva voce*. It partakes of the nature of

the sovereign authority of the citizen when exercising the elective franchise. In my State, when exercised by the citizens at large, it is always by ballot; and it is the same in the State Legislature. We elect our Speaker by ballot, and I am not aware that any inconvenience has been found to result from this rule, or that there has been any attempt made to change it.

But when the appointing power is exercised by a legislative body, for the State or nation, I am clearly of opinion that it should always be done by open nomination. It is then an exercise of delegated power, in which the constituent is interested, and he has a right to know how the trust has been discharged.

The appointing power which this House can exercise it entirely of the former kind. It appoints no officers having general authority over the citizen, but merely those whose jurisdiction is limited to ourselves. The words of the constitution are: "The House of Representatives shall choose their own Speaker and other officers." Our power, then, is limited to the choice of a Speaker, Clerk, Sergeant-at-arms, &c., each and all of whom are peculiar officers of this House, and not of the nation. This will appear more clear, and the distinction which I have taken more palpable, by reference to another part of the constitution, where the appointing power for officers of the nation is expressly vested in a different department. Speaking of the power of the President, it says:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur. And he shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors or other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Here the constitution clearly points out the distinction which I have taken between officers of the United States and officers of this House. The one is to be appointed by the President, by and with the advice and consent of the Senate, and can in no event be appointed by this House. It is not even in the power of Congress to confer this power upon the House. Congress may create an office, and declare its duties, and, if it be an inferior one, may confer the appointing power to fill it upon the President alone, the courts, or the heads of Departments, but in no event can they confer that power upon this House. The constitution has given no such discretion, and our authority is limited simply to the appointment of officers for our own body, and not, in the language of the constitution, for the United States. And whether these officers of our own body shall be elected by ballot or *viva voce*, I think not very material. Unless there be some good reason for changing the rule at this time, I should be disposed to let it remain as it is.

But, sir, I suppose that the fact is that this change is to be effected for the purpose of having some influence in the election or appointment of a printer to this House. It can have no influence on any other appointment. All others, which we have the power to make, are already made. We may as well, then, meet the question fairly, and see whether the resolution will reach this subject; and, if it will, whether we have the power to effect it.

The first inquiry is this: Is the printer to this House an officer? If he be not, then the resolution will not reach his case, or affect the mode of his appointment. This is rather a difficult question to determine; but, from the consideration which I have been able to give the subject, I am inclined to think that he is not an officer, but a mere contractor. He takes no oath of office, he exercises no authority, but merely contracts with the Government to perform certain services, and gives security for their performance; and, if he does not comply with his contract, he is liable to be prosecuted upon it, and be compelled to respond in damages. But, perhaps, a better criterion for determining whether he is an officer or a contractor, is this: Can he resign? Every officer on whom authority is conferred may resign his office at pleasure, and restore the power to the fountain whence he received it. Not so with the contractor; he has received no power, he has none to resign. He has entered into a contract to perform services, and must perform his contract or subject himself to a right of action for a breach of it.

I am further confirmed in this opinion by a reference to the joint resolution or law under which this person is appointed by this House to perform these services. That resolution provides that in case the printer with whom we contract to do the printing of this House shall fail to perform his contract, that then the Clerk of this House may employ another printer to execute any portion of the work. Now, if this person be an officer, and an officer of this House, then he must be chosen by the House. The constitution expressly declares that we shall choose our "Speaker and other officers," and gives us no authority to delegate this power of choosing our officers to the Clerk, or any other officer or department. But if it be said that he is an officer of the nation, and not of this House, then it is equally clear, from that part of the constitution which I had read, that we have no power to appoint him. Congress itself could not confer that power upon us. The constitution has expressly vested this power of appointing "officers of the United States" in other departments.

The legislative authority of the nation has, by this joint resolution, created us an agent to contract with any person whom we shall designate by our votes to do the printing for this House. This power to make this contract might have been vested in any other body or officer. In a certain contingency it is now vested in the Clerk of our House. Does the Clerk, when he exercises this authority, act as an officer of this House, or as an agent of the United States, under the authority conferred upon him by the joint resolution? Clearly in the latter capacity. As Clerk he is authorized to make no contract. This House, by itself, has never even attempted to authorize him to make any contract. The authority comes from both Houses of Congress, with the assent of the President, and has the force and effect of a law. It is the same to him and to us, derived from the same source, and might be conferred, as well to enter into a contract to build this Capitol, as to do the printing for this House; and in my opinion the printer is no more an officer in the one case, than the builder in the other.

But suppose I am mistaken in this, and that the printer is an officer of this House. Then, sir, by the constitution, we cannot elect him for the next Congress. "Each House is to choose its own officers." The authority of this House will soon be at an end, and another is to succeed it. Can we elect a Speaker for the next House, or Clerk? No one will pretend it. And by parity of reasoning we cannot choose a printer, if he be an officer of the House. This question was a good deal agitated last winter. It was then said that the printer was an officer of this House; and that, by the constitution, each House was to elect its own officers; and that, therefore, the appointment of printer by the last House of Representatives was not binding upon us, and we might go on and choose another for ourselves. I have some curiosity to see how those who maintained these

doctrines will act now. Will they be inclined to choose a printer for the next House of Representatives, and, if so, by what authority will they do it? Clearly, they cannot, under the constitution; for each House elects its own officers. Then they must under this joint resolution, and we will look to its provisions again. It was passed in 1819 by both Houses of Congress, and approved by the President, and is, in reality, a law of the United States, so far as it has not been repealed. It first provides for the form and manner in which the printing of Congress, not of this House, shall be done. It then establishes the prices which are to be allowed for composition and press work, and then provides, as follows:

"That, as soon as this resolution shall have been approved by the President of the United States, each House shall proceed to ballot for a printer to execute its work during the next Congress; and the person having the greatest number of votes shall be considered duly elected; and shall give bond, with sureties, to the satisfaction of the Secretary of the Senate, and the Clerk of the House of Representatives, respectively, for the prompt, accurate, and neat execution of the work; and in case any inconvenient delay should be at any time experienced by either House, in the delivery of its work, the Secretary and Clerk, respectively, may be authorized to employ another printer," &c.

Now, sir, it is clear that this resolution can only be altered or repealed by an authority equal to that which enacted it. We cannot, by a simple resolution of this House, repeal a law of Congress. No one will pretend this; and I find no subsequent law or joint resolution altering the mode here pointed out for electing a printer. This resolution declares, expressly, that it shall be by "ballot." Can we then say it shall be *viva voce?* We must either elect this person under the resolution, by virtue of the authority there conferred, and in the manner there prescribed, or else under the authority conferred upon us in the constitution to elect our own officers. If we take the former, we must pursue the authority given to us. We can no more alter the mode of executing that power than we can add to the power itself. But if we take the latter, then we cannot elect at all. Each House must elect its own printer, and we cannot elect one for the House that is to succeed us. So gentlemen may take either horn of the dilemma, and I do not perceive that the resolution under consideration is calculated to aid the objects which they have in view. If we will alter this mode of appointment, it must be done by a joint resolution; it cannot be done by a simple resolution of this House; and as that is evidently the intent, I shall be compelled to vote against the resolution as it now stands.

Mr. REYNOLDS observed that he had not the least intention of producing any excitement when he had the honor to offer this proposition for the consideration of this House, and he sincerely hoped that none would be now created by it. He was not himself considered at home a violent party man, and he condemned excessive party excitement either at home or abroad. The gentleman [Mr. FILLMORE] from New York urged in this discussion Mr. R's motives in presenting this resolution. He stated them to be to operate on the election of public printer. In this allegation, Mr. R. observed that his friend [Mr. FILLMORE] from New York was entirely mistaken. He did not now entertain any great feeling or interest about the election of a public printer, and, at the time he introduced the resolution, he did not even know that there was one to be elected at this session of Congress. He had nothing to do with the election of a public printer, and did not care on whom, or on what printers, the resolution would operate.

He observed that he moved it because it was the rule of action of the Representatives in the State of Illinois, in which he lived, and had the honor to represent in part, and it was adopted when he had the honor to be in the Legislature of that State; and that it was the republican rule in every representative body. This was the reason he offered it, and on these principles he hoped it would be sustained by the House; consequently, the burden of the song of the gentleman from New York, the election of a public printer, was out of the question. It could not in fact be discussed on the proposition which is now before the House. "Sufficient unto the day is the evil thereof." Let the abstract principle be once established; let the republican rule be adopted, and then let it operate on preachers, speakers, printers, and all officers of the House, on whom it ought to operate. Do right in all cases, and let the consequences provide for themselves.

Mr. R. remarked that, as his motives and the election of public printer were disposed of, he would bring to the consideration of the House part of the fifth section of the first article of the constitution of the United States; which he read, as follows:

"Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal."

This is the rule of action in all cases when it is applicable. It is the supreme law of the land. The object of this part of the constitution was to preserve a record of the proceedings of Congress, and to give them publicity to the people. This is expressly required on all questions in the proceedings of Congress, where one fifth of the members desire it. No member of this House will contend that an election is no question. It is the most important question, frequently, to members of Congress, of any that could be agitated.

Mr. R. said he recollected well, last summer, it was an important question to your humble servant. He appeared often on the "stumps" before his constituents; and each party, candidate, and constituent, took it for granted that it was a question. Is not the election of a public printer a question also? There is too much discussion about it in this House for it to be no question. Some may say that a rule of action under the provisions of the constitution has been for a long time different, and ought not now to be changed from this mode of balloting. He considered the principle to be just, that, whenever we found an error to exist in our proceedings, if those proceedings were as old as Jerusalem, we should change them. It may be that this provision of the constitution was never discussed in relation to this subject, and consequently never acted on. If neither an examination nor discussion has been had on this part of the constitution, the prevailing practice of balloting should not receive much consideration from its antiquity—"An ancient error cannot make a modern right." The object and meaning of the constitution was to give publicity to the proceedings in Congress; and, as all elections were questions in which the people were interested, the conclusion is irresistible, under the provisions of the constitution, that the proceedings in all elections should be *viva voce*, and published to the world in the journals.

It cannot be seriously contended that, under the constitution, the yeas and nays ought to be used literally in an election; but even this could be done. The candidate proposed for office could be voted for in this language. The voter could say yea or nay to him. And one fifth of the members present may require it. But, independent of the express provision of the constitution, and independent of the spirit and meaning of that

instrument, Mr. R. observed that this proposition was of such a character, arising from our republican institutions, that it is almost as susceptible of demonstration as any mathematical problem.

In this Republic the supreme power rests with the people, under such rules and regulations as are prescribed in our constitutions and laws. The people are sovereign, and of right must be, while our Government continues to exist as a Republic. No tyrant or irresponsible lord or representative can rule over us. The people are responsible for their acts to no earthly power, while they remain within the pale of the constitution and the law of the land. This principle needs no demonstration to an American. It is self-evident to every republican: and I hope I address such. Arising out of this principle, the system of representation must of necessity be adopted. It would be folly to suppose that all the people of this widely-extended Republic could assemble together to provide for their various wants, and to transact their public business. If they were present they could not do any business, as the body would be so unwieldy. Hence resulted the representative form and principle in our Government. It is the great improvement in Governments which gives the modern the great superiority over the ancient Republics. This is the principle, above all others in our Government, which should be preserved pure and sacred. Any intervening circumstance, although trivial in itself, that tends to injure the purity of elections, or the purity of the representative principle, should be condemned as dangerous to our liberties.

Judging from the experience of a few years past, Mr. R. said he had arrived at the conclusion that the people of the United States are determined, at all hazards, to preserve the purity of elections. This is the greatest evidence of the vigor, strength, and long life of our Government.

Next in the order of events is the responsibility of the representative to his constituents. This is as important, and, in fact, as necessary to be cherished and preserved in its purity, as the elective franchise. It is a yoke fellow; one will not exist in vigor when the other is in decay and rottenness. They will both rise or fall together, as they both stand on the same political ground. A moment's reflection will satisfy all of the necessity of the responsibility of the representative to his constituents. The very name will show that he is not acting for himself in his official capacity. He acts for others, and to them he is responsible for his official conduct. He should be the mirror, to exhibit the sentiments of his people, and, in fact, the miniature picture of the people. Although I am at a great distance from my constituents, and perhaps not one of them will witness any of my official conduct, yet I consider myself bound, by the nature of my office, and by my own feelings also, to represent in this House the will and sentiments of the first congressional district of the State of Illinois. Should I disregard their republican sentiments on the subject now before the House, and vote to hide my vote from their examination, I would be taught a lesson, through the medium of the ballot-box at home, which would be a warning to me on all future occasions. This, I think, would be my lot. I judge not for others. This principle being established, that the representative is bound to represent the sentiments of his constituents, truly and honestly, and that he is responsible for the same, the question then arises, how is this fact to be ascertained?

The proposition now before the House is nothing more or less than to require the best evidence to ascertain the responsibility of the representative of which the nature of the case is susceptible. This is the common sense, and, I may add, the common law rule of evidence in our courts of justice. And should it not be extended also to transactions in the most high and august tribunal in the nation? The record evidence of each individual's vote on the journal is the mode the best calculated to exhibit to the people the acts of their representatives. This is the mode pointed out by the constitution, and it is found by experience to be the best manner to preserve the history of any transaction in courts of justice, or in legislative bodies. It is much the best for the member himself. There can be no perversion of his vote, if it be recorded as it falls from his mouth. His constituents and the world, if they please, will know how he acts. Mr. R. said he was satisfied that there was no person in this House who would want to hide his vote on any public transaction. The people, as they are sovereign and not responsible to the representatives or to any body, have the right to vote as they please, by ballot or otherwise. The ballot system is the best for the people, and the *viva voce* for their public servants. It is idle to contend that the constitution requires the record of the proceedings and votes of members on measures to be recorded, and not on men in elections. On measures, one fifth of the members can require the votes to be recorded, and on elections of men to office the same rule and principle should be applied. They are both within the meaning and letter of the constitution.

Mr. McKINLEY did not consider it a matter of the least consequence, so far as this resolution was concerned, whether the printer to this House be regarded as an officer of the House, or one bound by contract to perform a particular duty. The joint resolution of 1819 could have no influence upon the mere question of election or appointment of printer, because that part of it which directed that the printer to each House should be elected by ballot was temporary, and expired with the first election under it. The residue of the resolution, which regulates the duties of the printers, is still in force. The joint resolution of 1829 is the law regulating the election of printers; by it there is no mode of election prescribed; consequently there is no law of Congress requiring that the election of public printer shall be by ballot.

But, sir, if there was such a law, it could have no weight in a case like this. The constitution confers the power on each House, to determine the rules of its own proceedings. That part of the resolution of 1819 which directs that the printers shall be elected by ballot does nothing more than prescribe the rule of proceeding in the election, therefore is not obligatory on either House longer than either chooses to conform to it. There is nothing, therefore, in the resolution of 1819, if it were in force, which could, or ought to restrain this House from adopting the resolution under consideration. Sir, I deem it unnecessary to follow the argument of the gentleman from New York, [Mr. FILLMORE,] further upon this part of the subject. The resolution under consideration is one of great importance in principle; it proposes that the vote of each member of this House shall be entered upon the journal in every election, and thereby promotes the great and leading principle of the Government—the responsibility of the representative to his constituents. In doing this, it conforms to the spirit and intention of the constitution. Why should any gentleman desire to conceal his vote, or to shield himself from just accountability, upon this, more than any other subject? Upon all other questions, it is admitted that one fifth of the members present can compel each member to vote *viva voce*, and have his vote recorded in the journal. Are elections exempted, in any way, from the influence of this rule? Is there any reason why they should be? The constitutional rule is broad enough to cover every case that can come before either House.

It is in these words: "Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House on any question, shall, at the desire of one fifth of those present, be entered on the journal."

Sir, is not an election a proceeding which is, and ought to be entered, on the journal? If so, any question arising in the course of that proceeding may be so entered, or there is no virtue in the rule. There is no provision of the constitution more practised under by this House, none so well calculated to keep the people informed of the proceedings of Congress, and the motives of its members; why then should they not have the full benefit of it in elections as in other cases? It does appear to me to be utterly impossible to escape from the obligatory form of this provision in this or any other case. The proposition here is that a majority of this House, by passing the resolution under discussion, may compel all the members voting upon a question of election to have their votes entered on the journal. The constitutional rule is, that one fifth of those present may do so, and yet gentlemen say this resolution ought not to pass.

Why was this provision inserted in the constitution? Was it not to enable the people to see who sustained and who opposed any particular measure? This, sir, is the living principle of this Government; without it the liberties of the country could not be preserved. We see efforts making daily, on the part of the Representative, to shake off all responsibility; and to put at defiance the popular will. Let it now be established, by the vote of this House, that we are not bound to record our votes, in the election of officers, or on any other question, and the boldest step towards irresponsible power ever yet taken in this Government will have been, so far, established. Is there any exception to the rule laid down in the constitution? If elections of officers, the election, or appointment of printers, or any other act or thing to be done by this House, is excepted, let the exception be shown. There is just as much danger from the exercise of irresponsible power in the election of officers of the two Houses of Congress, as in innumerable other cases, occurring daily, in which the yeas and nays are required. Your Clerk disburses annually more than one hundred and fifty thousand dollars—has the custody of the papers and journals of the House. The Speaker presides over the deliberations of this House--appoints the committees—examines and corrects the journal--preserves order and decorum--decides questions of order; and, in virtue of his office, may be President of the United States; and have the people no interest in the appointment of these officers? It is strange if they have not. Should a worthless individual be appointed to either of these offices, and any signal failure of duty occur, we should hear the inquiry—who voted for him? By which party was he elected? But under the existing rules of this House, these would be unavailing questions --secrets, which the people could not know, and which gentlemen say they ought not to know.

The framers of the constitution did not put it in the power of a bare majority of either House to suppress, or exclude from the journals, the vote upon any question whatever; but, to effect that object, they required that more than four fifths of those present should concur. This shows the jealous apprehensions entertained by those patriots. It shows that they foresaw that the Representatives would be disposed to conceal their proceedings and to avoid responsibility; and fearing the combinations of interested members, and the failure of public virtue, they put it in the power of one fifth of those present to coerce the remaining four fifths, andcompel them to record their votes for the information of the people. And is this essential provision of the constitution to be entirely disregarded--nay, violated--because it has been neglected heretofore?

It may be, sir, that I am mistaken on this subject; I am willing, however, to abide the consequences of that mistake, and record my vote in favor of this proposition.

Mr. HARDIN designed, he said, to make only a few remarks on this resolution. Without saying on which election it was intended to bear, he was willing to believe that it was intended to bear upon all, upon the preachers, as the gentleman from Illinois said, as well as the printers, to the House. But the gentleman from Illinois was too good a lawyer not to know that the change of the mode prescribed in the joint resolution for electing a printer would relieve him from his bond and from his other obligations and penalties prescribed by law. The joint resolution of 1819 grew out of a general complaint of the extravagant charges made for printing. A committee was appointed to examine the subject, and make a report to Congress, and the following resolution was adopted. [Mr. H. here read the resolution of March, 1819; which will be found in the United States edition of the laws.]

Now, sir, said Mr. H., this law fixes the price of printing, and the mode of its execution; directs that the printers shall give bonds, and that if they fail to perform the contract, another person may be employed to execute the work at their expense; and the same law says that the printers shall be elected by ballot. If the contract is not made according to the terms of the law, the printers may charge what they please for the work, and execute it in what time and manner they please, without forfeiting their bonds.

[Mr. VANDERPOEL here rose to a question of order. There was no proposition before the House to go into the election of a printer, and he submitted whether the discussion of that subject was in order.

Mr. HARDIN said he had an amendment to offer, which would meet this argument.

The CHAIR determined that the gentleman from Kentucky was in order.]

Mr. HARDIN said all the inconvenience would be obviated by a proviso which he should offer. After contending that the proposition infringed upon the law under which the printers were elected, he argued, in reply to the gentleman from Alabama, [Mr. MCKINLEY,] that the law of 1819 was not, as the gentleman supposed, repealed by the joint resolution of 1829. It merely modified the rule in some other particulars. But the House had been informed, he said, that the constitution of the United States required all elections to be made *viva voce*. Sir, said Mr. H., I believe that, from the foundation of the Government to this day, all elections have been made by ballot in both Houses of Congress. There had been wise men here from all quarters--some from the East, whence the scriptures said they should come--and the fact had never before been discovered, that the constitution required *viva voce* elections of officers of the two Houses. The discovery came from the West--and, to be sure, he was glad to find that the wise men now came from the West, for he was a western man himself. He found now, what he had never known before, that his votes for printers, preachers, and messengers of the House, which he had heretofore thought very little of, were of the utmost importance to his constituents; that they were given on the highest representative responsibility, and that they must be written in sunbeams for his constituents to read. If the House would, however, adopt the proviso he should now offer, (as they were bound to do, unless they meant directly to violate the law,) he imagined that this resolution would fall stillborn. He moved to amend the resolution by adding the following:

"*Provided*, That elections ordered by joint resolution of the Senate and House of Representatives, approved and signed by the President, shall be conducted in manner and form as directed by said resolutions."

Mr. GILMER said, if one who was in the habit of attending the proceedings of this House should now ask what is the House doing, of such consequence that every member is now seen in his place and attentive to the business, what answer would he receive? Why, sir, when we are voting away $20,000,000 of money in a single bill; when the most important national interests are under consideration, we can scarcely get a quorum to attend to business; whilst now we have calls of the House, with the yeas and nays, and every indication of roused attention. It was important (Mr. G. said) that the people should know what occasion had produced all this excitement and all this earnest attention. The answer reached as deep as the foundation of this Government. Was the proposition before the House to remedy any evil? No: for what evil was complained of? The answer, he repeated, went to the very foundation of this Government. The proposition proceeded on the supposition that this was the most corrupt Government on the face of the earth. What was the difference between the two forms of voting? When it was intended that the voter should act on his own judgment, the vote was given by ballot; and when the vote was to represent the judgment of other persons, it was given *viva voce*.

What do the people of Illinois know about the officers of this House? He questioned whether there were ten men in the State of Illinois who knew or cared any thing about them. They could not, in the nature of things. It was destructive of the very principles and essence of democracy to apply this mode of voting to such a case. It was intended, in voting *viva voce*, that the voter should be dependent upon any other persons who were concerned in the vote. Shall we (said Mr. G.) be dependent, in a matter relating entirely to ourselves, upon other persons? The right of voting by ballot had been contended for in every free Government. When the voter ought to be dependent, it was proper to vote *viva voce*. Upon whom is it proposed, by the resolution before the House, to render us dependent? Not upon the people—not upon those whom we represent—for they cannot judge whether the officers we elect are fit for their stations or not; but upon the men who hold the party power of the Government. We are to be brought up, for our votes here, before the men who command the party power and patronage of the Government. This (Mr. G. said) was the object and tendency of the proposition; and, if he concealed or denied it on this occasson, he would not exercise independence of thought and speech. Was it worthy of the House to be made thus dependent upon the executive officers of the Government, in the exercise of the right of choosing their own officers? The proper reward to an officer for the correct discharge of his duty was to continue him in his place. That was the only true principle in application to the officer. But the proposition before the House was to render the officer dependent on a party majority, independently of the manner in which he discharged his duties. It was important (Mr. G. said) to the comfort and convenience of the House that they should be left to the independent exercise of their own judgment in the matter. They wanted officers to perform their duty. To render the members of this House responsible to those who wielded the executive patronage, was a principle which would sap the foundation of our Government. The House ought not to permit themselves to be made dependent on any consideration in the choice of their own officers, except that of the benefit to be derived to themselves. He believed that this new principle of the dependence of the House upon the executive officers of the Government was rapidly gaining ground: and unless, said he, in conclusion, we can carry home to the people an impression of the magnitude of this evil, we cannot much longer preserve the freedom of our institutions, as intended to be guarantied by the constitution.

Mr. MILLER, of Pennsylvania, said that, long before he had the honor of a seat in this House, his attention had been turned to the present rule under which the members vote by ballot for the officers of the House. He had always thought it wrong. He well recollected when at home, among the people, in examining the proceedings of Congress in the papers, the general result of the election could only be seen: but the people could not ascertain, from a list of yeas and nays, how their own immediate Representative, nor how any other member, had voted. He also recollected that one of his predecessors (the late Mr. Ramsay) had, during his term, brought this subject before the House, by moving a resolution very similar to the one now under consideration, and having precisely the same object in view. He then felt astonished that it had not met with a more favorable reception, as he had always thought the proposed change so reasonable in itself, that it was only necessary to bring it to the notice of the House to ensure its adoption. He thought there was a peculiar fitness and propriety in the alteration proposed. It was due to the members themselves, and it was due to their constituents, that the change should be made. The present mode of voting is not only an undeserved imputation upon the independence of the members, but it subjects them to unjust imputations. Their political opponents may represent them as having voted for this man or for that man for Speaker or for public printer, so as to injure them in the estimation of their constituents, and there is no journal or published list of yeas and nays to put the question to rest. The Speaker of this House is one of the most important and dignified officers of the Government. He occupies a distinguished and very elevated position in the eyes of the nation. The people, therefore, have a right to know how their Representatives vote in his election, as well as that of public printer, and the other officers of the House.

In the State which he had the honor to represent in part, the people vote by ballot themselves. This he thought right; their votes are their own, and no one has a right to inquire how they dispose of them. But it is not so with regard to their Representatives. So tenacious and careful had the people of Pennsylvania been on this subject, that they had made it a provision in their constitution, that all votes, given in a representative capacity, should be *viva voce*. The Representative gives the vote of his constituents, and not his own, and consequently they have a right to know how he does give it. This, as a general rule, cannot be successfully controverted in a representative government, and certainly the case under consideration forms no exception. He was no little astonished at the opposition to the resolution by the gentleman from Kentucky, [Mr. HARDIN.] He represents a State where the people themselves vote *viva voce*—an intelligent and independent people, who proclaim aloud for whom they vote. And why should he, as their Representative, wish to put in a secret ballot for any officer of this House, in preference to naming aloud the individual for whom he votes? Certainly, gentlemen who represent those States, where the people themselves vote *viva voce*, will be the last to resist the adoption of the resolution under consideration.

Mr. M. said he would not enter into a discussion of the abstruse legal question, as to whether the printer to this House is an officer or a mere contractor. In his opinion it had nothing to do with the question under consideration. With regard to the objection that is

made, that the adoption of the resolution will interfere with the joint resolution of the two Houses relative to electing a printer, he would observe that it is true that the first resolution on that subject provides that the choice shall be made by ballot, but the last resolution on the subject, passed at the session of 1828–'29, provides that the members of each House shall vote for a printer, omitting the word by ballot. He had always understood that the last or subsequent law repeals the former, where there is any inconsistency or incongruity between them. He therefore thought that the members were, in this case, at perfect liberty to vote in any manner they may choose to adopt, so far as this joint resolution is concerned.

The resolution now under consideration is one (said Mr. M.) upon which much might be said by travelling into irrelevant and extraneous matters; but it is one that requires but very little argument to show the propriety of its adoption.

The question presented is nothing more nor less than simply this: shall we change the rule of this House in relation to the election of officers, so that our constituents and all others may know for whom we vote? Or shall we continue the present rule, so that neither they, nor any one else, shall know for whom their votes are given by their Representatives?

Mr. BRIGGS said he would ask the indulgence of the House for a few minutes. He should confine his remarks to two questions which had been presented in the course of the discussion. The first question is, has this House the power, by its own resolution, to direct the mode of appointing its printer? As the printing is to be done by contract, it is admitted, if there is an existing law which prescribes the mode of choosing a printer, the House cannot change that mode. How is the fact? It is conceded that, by the joint resolutions of 1819, passed by both branches of the Legislature, and approved by the President, the choice must be by ballot. Has that part of those resolutions, which provides that both Houses shall choose by ballot, been repealed? Those resolutions, which are to be regarded as having the force of a law in all respects, go on, and minutely to prescribe in what manner the printing of Congress shall be done, and what price shall be paid for it. The last resolution provides that, "as soon as the resolutions shall be approved by the President of the United States, each House shall proceed to ballot for a printer," and "the person having the greatest number of votes shall be considered duly elected."

It does not point out at what particular time future elections shall take place. The resolution of 1829, which it is contended repeals that clause of the former resolutions which directs the appointment to be made by ballot, provides "that, within thirty days before the adjournment of every Congress, each House shall proceed to vote for a printer," and that "the person having a majority of all the votes given shall be considered duly elected;" and it further declares, that "so much of the resolutions of 1819 as is altered by this resolution is hereby rescinded." Now, what part or parts of the resolutions of 1819 are rescinded? Clearly, none except that part which leaves the time of future elections unlimited, and that which declares that the person having the plurality of votes shall be considered elected. The gentleman from Pennsylvania [Mr. MILLER] says the mode of election is changed, because the last resolution declares the two Houses shall proceed to vote, and does not say how they shall vote. But the first resolutions do prescribe the mode of voting, and, as the last does not change that mode, it is but little less than absurd to say that the provision of the first resolutions is rescinded. The gentleman's rule of construction, if carried out, would prove quite too broad for his purpose. For if the mere omission to speak changes or repeals the first resolutions, as the last resolution makes no provision for the price or style of printing, the whole thing is now open, and no law exists on the subject. And if this be so, we have no power over the matter; for, as is truly remarked by the gentleman from Alabama, [Mr. MCKINLEY,] the House cannot make a contract of this kind unless authorized by law.

[Here Mr. MCKINLEY, having asked and obtained leave to explain, remarked that the gentleman from Massachusetts had not, probably, observed that the resolutions of 1819 were, by their terms, temporary, and did not extend beyond the session when they were adopted; and, if so, they could not affect the question under debate.]

Mr. BRIGGS said he did not admit that the terms of the resolutions of 1819 were temporary; but if they were so, the present argument was not affected by it, because, by the language of the last resolution, it was the clearly expressed will of the Legislature that all the provisions of the former resolutions, except so much as were altered by the last, should remain in force. The title of the last resolution, which is a "resolution amendatory of the resolution" of 1819, plainly shows this to have been its object.

Mr. Speaker, did the Congress which passed the resolution of 1829 believe that by that resolution the mode of voting for printer was changed? If so, why did they not act in pursuance of that belief? But it is an undeniable fact, that both Houses, from that time to this, have continued to vote by ballot. The gentleman from Illinois proposes by his resolution to change the rule of this House, which provides for the choice of its officers by ballot, so that hereafter they shall be elected by a *viva voce* vote. Suppose his resolution should provide that hereafter the House should proceed on a given day to vote for its officers, and that of all its present rules, which are altered by this resolution, should be repealed. Will any gentleman stand up in his place and say that such a resolution would change the mode of election? It seems to me, sir, that by every sound and established rule of construction, the choice of printer by ballot, as settled by the joint resolution of 1819, is not affected, altered, or in any way changed by the resolution of 1829, and that this House have no power to interfere with that mode.

Mr. Speaker, before I resume my seat, I want to say a word upon another question, which has assumed a very grave importance in the course of this debate. It is said by gentlemen, that, by the principles of our constitution, and the doctrine of representative accountability, the Representative ought to give an open vote, in all elections that may take place upon this floor. These are new doctrines in this House. They are asserted with great confidence by the gentleman from Illinois, and those who espouse his side. Yes, sir, after both Houses of Congress have, for more than forty years, elected their officers by ballot, the gentleman from Illinois has discovered that this practice is subversive of the great principles of the constitution, and dangerous to liberty. One would almost conclude, from the earnestness with which the gentleman urges an immediate change of the ballot for a *viva voce* vote, that our whole political fabric was about to be overthrown by this pernicious and wicked system of ballot voting. How amazingly stupid and obtuse must the wise men, who founded this constitution and for years administered the Government under it, have been, not to have discovered this capital error. Sir, can any gentleman seriously believe that the sages who formed that instrument ever contemplated that the choice of the officers of this House, from the Speaker down to the assistant doorkeeper, would be a matter in which the constituents of

those who come here would take an interest or wish to interfere? If we do their business well, if we guard their interests, and faithfully perform those services which they have sent us here to perform, they will not trouble themselves to inquire into the mode by which we choose the various officers necessary to regulate the internal affairs of this body.

The gentleman from Pennsylvania [Mr. MILLER] asks, in a style equally chaste and emphatic, if the members of this House "wish to continue to sneak in their votes by ballot." Sir, by what rule of propriety does the gentleman use such language towards those with whom he associates here, in relation to their official acts upon this floor? Let those use such epithets who know how to appreciate them, and who can participate in the low and grovelling sentiments and conduct which they describe. I do not believe the gentleman from Pennsylvania is one of those, and hope therefore he will be cautious how he lets such terms escape him. Does the gentleman remember that he holds his seat on this floor by the votes of the freemen of his district, cast in the same manner? Will he reproach those freemen of Pennsylvania who sent him here, with having sneaked in their votes for him by ballot? This a matter, however, between him and them. I will not trouble myself, therefore, to inquire how they they would relish such a compliment.

Mr. Speaker, the ballot principle is, and has been, from the earliest period of their history, considered of the highest importance by the people of the State which I in part represent. They believe that in its practical operation it gives a more fair and unbiased expression of the public will, in the exercise of the elective franchise, than would or could be given in any other mode. It places the timid, the embarrassed, and the weak, upon the same level with the rash, the wealthy, and the powerful. So inviolable and sacred do the people of Massachusetts regard this principle, that they visit with a severe penalty any public officer, presiding at an election, who shall, from curiosity or any other motive, attempt to scrutinize the vote which any freeman may choose to carry to the poll. The same great principle and practice pervade the institutions of all the New England States. They regard the ballot-box as the palladium of their political rights. I know that our brethren in many of the States of this Union, especially in the Southern portion of it, differ from us on this subject. In theory and in practice they maintain the *viva voce* mode of voting. They sustain their views by ingenious argument, and by strong and plausible reasoning. But, in my opinion, their reasons are not strong enough to master and control the more weighty and powerful considerations in favor of the ballot system. But gentlemen tell us there is a difference between the case of a citizen voting in his individual capacity and that of a Representative voting by virtue of a delegated power. It is not denied that the cases are different; but it by no means follows, as gentlemen would seem to infer, as a matter course, that, if the ballot principle is right in the one case, it is wrong in the other. It is asserted that the *viva voce* vote is the only true constitutional mode of election here, with all the distinctness and confidence that it would be if that instrument actually prescribed this mode of voting. From the ardent and impassioned manner which the gentleman from Illinois—I beg the gentleman's pardon, for he told us, no doubt in the honesty of his heart, that he had no idea of producing any excitement on this subject—I should have said from the cool and deliberate manner by which the gentleman supported what he avows to be a constitutional principle, a stranger to our constitution would be led to believe that *viva voce*, *viva voce*, was written upon every page and every section of that instrument.

I will pause for the gentleman to point out the place in the constitution where those words are found, or to inform the House on what section or article he relies to sustain his asserted principle. Is the gentleman aware that that instrument contains any provision prescribing the manner that the members of this House shall vote on and election that may take place here? If so, will he be good enough to name it? He does not choose to respond. Let me say to the gentleman, then, that the first section of the second article of the constitution does prescribe, in the most clear and express terms, the manner that the Representative shall vote upon a question more interesting not only to those whom he may immediately represent, but also more deeply interesting to the people of the whole country than any other—I had almost said than every other—that may be presented for his consideration and action—the election of President and Vice President of the United States. This is a case in which the Representative acts for, and in the place of, his constituents in the choice of their rulers. He is to decide whether the candidate whom their partiality would promote, or another, shall be elevated to the highest office on earth. Political interests of the greatest possible magnitude, liberty itself, may depend on a single vote. The sages who framed the constitution were not insensible to the gravity and importance of this official duty. It was their object to place the Representative where he could, in a fearless and independent manner, discharge the high trust reposed in him by those who should honor him with their confidence. They sought to guard and shield him from all the improper and corrupting influences with which he might be surrounded. To accomplish this object, the section I have named provides that "the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed," and if no person have a majority of the electoral votes, then the House of Representatives shall immediately choose "by ballot" the President. In like manner, if the Vice President shall not be chosen by a majority of the electoral votes, the Senate shall choose from the candidates "by ballot" the Vice President. But, sir, the constitution carries this principle beyond the walls of this House. The same section of the constitution provides that the electors of President and Vice President, who we know are elected by the people of the several States for the specific and single purpose of voting for these officers, shall meet in their respective States, and vote "by ballot." This House will judge how far these provisions go to support the declaration, so often repeated in the course of this debate, that the principles of the constitution require that all elections which may take place in Congress, should be by a *viva voce* vote. If the doctrine so urgently contended for on the other side ought to prevail in any case, it would seem that a case where the Representative is called upon to give a vote at an election, in the result of which his constituents and the country are deeply concerned, would be in point. But in precisely such a case, our constitution has established the opposite principle. This principle has been followed out by the practice of half a century, both in its application to the choice of President and Vice President, and by its adoption by both Houses of Congress in all elections for the choice of their own officers. No complaints have come up here from the people—no memorials have been sent by them demanding a change. Through all the political excitements which from time to time have agitated this Republic, no party and no individual of a party has ever dreamed of making the subject which we are now discussing a theme of party or political controversy. After this long acquiescence in a practice coeval with the

constitution itself--sanctioned by its provisions, and approved by those who formed it—to the patriotic gentleman, coming from the distant Illinois, is reserved the glory of discovering that this venerable practice is in violation of the great principles of the constitution, and dangerous to liberty. I would not withhold a tittle of the honor which belongs to him for the discovery and the annunciation of this new constitutional doctrine. But, not being satisfied of its soundness by the arguments brought to its support, I cannot go for it. I prefer to abide by the established mode of conducting elections in this House. This mode, as I have already said, has the benefit of a long and approved experience. It comes to us recommended and sanctioned by men in whose company I shall always be proud to be found. No mischiefs or inconveniences are shown to have resulted from it. It excludes, so far as any regulations can exclude, an influence from this hall which ought never to enter here. The proposed change would, in my opinion, open a broad and easy avenue for the introduction of that influence. Why should we be eager to rush into experiments, when no evils are shown to have resulted from the existing state of things? Are we to shut our eyes upon the lessons of experience, and refuse instruction from those who have preceded us? Shall neither the wisdom of our sages, nor years of successful trial, nor both combined, ever settle any question in the affairs of this Government? Mr. Speaker, I believe the resolution before you is intended by others, if not by the mover, to extend to the appointment of a printer to this House, as well as to the choice of its officers. I am clear that while the joint resolution of 1819 remains in force, this House cannot change the mode of appointment prescribed by it. I am not convinced that any principle of the constitution requires the introduction of the *viva voce* vote into elections which take place here. On the contrary, I have shown that the constitution has, in a most important case, established the ballot principle, thus negativing any general argument which might otherwise have been deduced from the relation of representative and constituent. I can, in no point of view, vote for the resolution.

When Mr. BRIGGS had concluded,

Mr. PEYTON took the floor, but yielded it to

Mr. LOVE, who, remarking that it was now 4 o'clock, moved an adjournment.

Mr. MANN called for the yeas and nays, but they were refused; and

The House adjourned.

MONDAY, JANUARY 26.

Mr. PLUMMER stated that he voted, on Saturday, in the negative, on the motion to lay the resolution in favor of *viva voce* elections on the table, and that his name did not appear on the journal. He moved that his vote be recorded; which was ordered.

FRENCH RELATIONS.

Mr. PATTON asked the consent of the House to submit the following resolutions, which were read:

Resolved, That the Committee on Foreign Affairs, to which was referred that part of the message of the President which concerns our relations with France, be instructed to report the following resolutions to the House:

Resolved, That the claims of our citizens for reparation from France, provided for in the treaty of 4th July, 1831, rest upon the strongest ground of right and justice, and their validity and extent have been rendered incontestible as between the two Governments by that convention.

Resolved, That the idea of acquiescing in the refusal of France to execute the treaty will not be entertained by any branch of this Government, and that we ought to insist, and have a right to expect, that France will not persist in the failure to comply with the engagement made in that treaty.

Resolved, That as the King of the French has, in some of the most recent communications which have passed between the ministers of the two Governments, given repeated and reiterated assurances of his sincere desire to have the treaty carried into effect, has declared his intention to present the bill for that purpose as soon as the Chambers can be assembled, and his determination to use every exertion in his power to obtain the appropriation, as the bill was heretofore rejected in the Chamber of Deputies by a very small majority, and as that body is now in session at an earlier period than was anticipated when Congress met, we ought at present to confide in the sincerity of the professions of the French Executive, and relying still upon the honor and integrity of France, notwithstanding the unjustifiable delays which have taken place, not now abandon the hope that the obligations of good faith, and a due sense of the justice of our claims will not be, finally, disregarded and overlooked by the French Government in any of its departments.

Resolved, That it is not expedient, at this time, and under existing circumstances, to adopt any legislative measure in relation to our affairs with France.

Mr. CLAY, of Alabama, asked whether the resolutions were reported from a committee; and, on being informed that they were offered by an individual member, objected to their introduction.

Mr. PATTON moved the suspension of the rule, to allow him to offer them; and stated that he merely wished at present to lay the resolutions on the table.

Mr. J. Y. MASON asked whether his colleague could not lay the resolutions on the table, to be offered when his State was called, in the usual order, on calling the House for motions.

The SPEAKER replied that he knew of no such practice as receiving motions upon the table in that manner. It would introduce much embarrassment and confusion.

Mr. CLAY desired the yeas and nays on the motion to suspend the rule, and they were ordered.

Mr. CAMBRELENG merely wished, he said, the question to be stated before it was taken, as he believed it was not generally understood.

The SPEAKER said that the effect of the motion to suspend the rule, if agreed to, would be to bring the resolutions before the House.

Mr. WILLIAMS asked for the reading of the resolutions; and they were, accordingly, again read.

Mr. PATTON stated, in order, he said, to remove any misapprehension as to his object, that it was not his purpose to ask for the consideration of the resolutions at this time. He merely wished to lay them on the table.

The question being then taken, it was decided as follows: Yeas 103, nays 109.

So the House refused to suspend the rule, so as to allow of the reception of these resolutions.

VIVA VOCE ELECTIONS.

The House resumed the consideration of the following resolution, offered by Mr. REYNOLDS:

"*Resolved*, That hereafter, in all elections made by the House of Representatives, (for officers,) the votes shall be given *viva voce*, each member in his place naming aloud the person for whom he votes."

The question being on the following amendment, offered by Mr. HARDIN:

"*Provided*, That elections ordered by joint resolu-

tion of the Senate and House of Representatives, approved and signed by the President, shall be conducted in manner and form as directed by said resolution."

Mr. PEYTON, of Tennessee rose and addressed the House as follows:

Mr. Speaker: I am partial to *viva voce* voting, and especially to *viva voce* acting. This partiality, and my great anxiety to avoid encroaching upon the constitutional powers of the next Congress, induced me to vote in favor of laying the resolution offered by the honorable gentleman from Illinois on the table, that I might offer what I am compelled to submit as an amendment, without any encumbrance whatever. What I am about to propose will secure a *viva voce* vote in all elections, and assert the right of each Congress to elect its printer. I have never seen the time or place when I was the least embarrassed in declaring for whom I intended to vote, and I hope I never shall be so craven in spirit, so lost to that independence which is native in the bosoms of my constituents, as to crouch, and hide—do one thing and say another. And, sir, I must be permitted to defend the citizens of my native State from those imputations which have been cast upon all who vote by ballot in their elections. Tennessee has voted in that manner in the election of all her officers for nearly forty years; and she has not lost her liberty, her gallantry, or independence. And if gentlemen think so, they are much mistaken. No, sir, such things depend upon the tone of sentiment amongst men, more than the mere mode of expressing that sentiment. The man who would represent the character and feelings of her people must be frank, candid, and independent—must be a plain case—no hiding, no dodging. If you ever see a gentleman at this—who cannot be found—you may feel, but cannot see him—who leaves no sign—cannot tell which end of the road he has gone—if you catch him out in a snow, get on his track, and are confident you have him; but when you come to find out he has turned the heels of his shoes before, and you are on the back track;—such a man is no Tennesseean.

But while I vindicate the character of Tennessee from those aspersions which have been thrown upon her on account of the mode of electing public officers, ingrafted upon that constitution which Andrew Jackson aided in forming, and retained by her recent convention after thirty-eight years' experience, I am willing that all elections by Congress shall be *viva voce*. I like to hear gentlemen speak out boldly on this floor, as well as elsewhere; for of all things, I have the least taste for hypocrisy or double dealing.

But, sir, I am equally anxious to secure another object, which must be dear to my honorable colleagues who agree in political sentiment with me, and my friends from Alabama, New York, and elsewhere, and that is the right of each Congress to elect its own printer. I know we all agreed in our constitutional views on this subject last winter. It was a question which produced much excitement in my district, and in the State generally. I gave my views, as I am now about to express them, and pledged myself to my constituents, if no one else did, to offer a resolution embracing substantially what I now offer on the subject of printer, and to move to go into the election at the commencement of the last session. I did not do so, and this requires an explanation to my constituents. My apology is to be found in the fact that, after I had my resolutions prepared, and was on the eve of presenting them, I was requested to permit an older and much abler member of this body, my friend from Alabama, [Mr. McKINLEY,] who addressed the House on Saturday, to offer the resolutions. To this I assented with great pleasure, but he was thwarted by the introduction of Mr. McDuffie's resolution on the deposite question, which was debated the greater part of the session. I am proud of an opportunity of redeeming my pledge to my constituents, and at the same time enabling my honorable friends to act out their principles, and aid me in reclaiming, for each Congress, the exercise of its inherent and constitutional rights. I have adopted the only mode by which this can be effected, and at the same time secure a *viva voce* vote. I have no petty purpose to subserve. We were for it at the last session upon principle, and cannot be against it at this. Our party is overwhelming in strength; it is committed on this question. We have said that the constitution has been violated by an expiring session of Congress; electing a printer for a new Congress; and let us not bring upon ourselves the reproach of inconsistency, but nobly step forward to the rescue of the constitution. Able, unanswerable arguments have been made on this question in the other end of the Capitol, by a great statesman and true democrat, which, I am sure, will have due weight with all, and with none more than my friends from New York.

I allude, sir, to the powerful argument made by the honorable Thomas H. Benton, in the Senate, on the 19th, and published in the Globe of the 22d February, 1833, on the motion to go into the election of public printer. He had, on the 13th of the same month, introduced a resolution, the substance of which I have embraced in my amendment. It was a joint resolution of both Houses; so is mine. It changed the time of election of printer from the end of the expiring Congress to the first week of the new Congress; so does mine. Here Mr. Benton's resolution stopped; mine goes further, and declares that the election of printer, and all other elections, shall be *viva voce*. And this is the only material difference between them. I confess that I should have been somewhat at a loss as to the powers of this House in repealing, or in any measure changing, a joint resolution of both Houses, which has received the sanction of the President, but for the light which that able and indefatigable Senator has shed upon this subject. I had looked upon the resolution of 1819 as unconstitutional and void; so did he: and he appears to have been prepared to sustain that proposition, wherever it should be presented. But when the question arose, whether the Senate could recognise its validity as a joint resolution, and, at the same time, change any one of its features by a single resolution, he promptly decided that it could not. This, sir, was, with me, an unanswerable objection to voting for the resolution of the gentleman from Illinois.

It is a single resolution, which will change the mode of electing a printer from a vote by ballot to *viva voce*, under a joint resolution, and change it in nothing else—thus recognising its validity in every word and syllable, except as to the mode of making the election. It cannot be done. We have a precedent, directly in point. I quote from Mr. Benton's speech before alluded to. Mr. Benton said:

"His present object was to prevent an election at this session; and for this he had a good precedent, originating in the Senate itself, precisely in point, in every particular. He referred to the election of a public printer towards the close of Mr. Adams's administration, when Mr. Green was elected over Gales & Seaton. The election came on; several ballotings took place; Mr. Green had a plurality of votes, not a majority of the whole. The joint resolution under which the Senate balloted (the resolution of 1819) expressly declared that a plurality should be sufficient; but the majority, on the eve of proceeding to the ballot, had passed a single resolution, to control the joint resolution, declaring that a majority of the whole should be necessary to a choice. The supporters of Mr. Green claimed the election; but the majority adhered to their single resolution, against the terms of the joint resolution, and refused to permit the election of Mr. Green to be declared. He (Mr. B.)

then moved that the ballotings should be discontinued. They were discontinued accordingly. No election of printer was declared. The session terminated without any further proceedings on the subject. At the commencement of the next session a resolution was brought in, declaring that Mr. Green had been duly elected at the preceding session. He (Mr. B.) voted for the resolution."

It passed. Can there be a stronger, clearer case in point? Here the Senate went into the election under the joint resolution of 1819, but passed a single resolution, altering it so far only as the number of votes necessary to constitute an election was concerned. That single resolution was declared to be a nullity by the Senate at its next session, on the ground that a joint resolution could not be altered or changed by a single resolution. And the Senate and House of Representatives, in 1829, did, by a joint resolution of both Houses, make the alteration which had been attempted to be made the preceding session by the Senate alone, and declared that a majority of the whole number of votes given should be necessary to a choice in the election of printer, but leaving the resolution of 1819 unchanged in every other particular. Now, sir, have not the Senate and House of Representatives each acted on this question, of altering the resolution of 1829 by a single resolution, and decided that it cannot be done? I think so, most clearly. I would have no hesitation in saying that the whole resolution could be set aside by any new Congress which might choose to elect its own printer, but I deny that an expiring Congress, which has made all its elections, can by a single resolution alter a joint resolution in part, the validity of which resolution is recognised as constitutional. I ask gentlemen to deal candidly; and say whether their object is not to go into the election of printer at this session? If not, what other election is coming on at this session. And, sir, I should like to know whether the next Congress will not be as well qualified to judge for itself of the mode of electing its officers as this Congress is? What right have we say to our successors, you are a "slippery, sneaking" set of fellows. We have a high regard for your constituents, but no confidence in you, and have therefore said that you shall vote *viva voce* in the election of your officers. It is true that we elected all our officers by ballot; there is no complaint; the House is satisfied; the country is well pleased; not a word of discontent, save an occasional groan of disappointment, coming not from the House or country. Sir, it appears to me to be stepping over the line of our duty, to undertake to dictate to the next Congress with regard to the mode of the election of printer.

The constitution secures to each House the power to determine the rules of its proceedings; but not to determine the rules to govern the proceedings of the next Congress.

But, sir, as it will stand in the light of a mere recommendation to the next Congress, I am willing to accommodate gentlemen in their fondness for *viva voce* voting, with a hope of conciliating their support on the main question--that of securing to each Congress the right to elect its own printer. And, sir, I am the more inclined to this, as it is said that it will certainly secure perfect independence in voting; whereas, now it is complained that the oldest drill sergeants may take out a raw recruit and drill him for hours, and, when he comes to vote, he will not feel those nobly lofty sentiments of independence which will prompt him to give the sergeant's vote, but will sneakingly give his own. This is monstrous, and ought to be corrected. For, if it is not, the noble science of drilling will be stripped of half its charms, and wild, rude militia-men will be constantly consulting their judgments and their consciences in great national questions, involving the liberty, happiness, and constitutional safety of the country. All of which, it is thought, may be corrected by a combination of the two operations of the sergeant on drill, to learn him what is right with the nippers, to pinch the word from him at the right time afterwards. This is so perfect a system of independence, that all men must be delighted at the dawn of that bold and glorious republican sun which is about to shed a flood of light upon our hitherto dark and benighted hall of legislation.

But, sir, to the main question—that of postponing the election of printer until the next session of Congress. I beg leave again to refer the House to the able and lucid argument of Mr. Benton on this subject. He said "his object was to vindicate the right of the new Congress to choose its own officers. That right belonged to it. It belonged to it, both inherently and by the constitution. It would have required a constitutional provision to take it away, not to secure it; yet, in two places, the constitution of the United States guaranties this right: once, in speaking of the House of Representatives, which is to elect its own Speaker and other officers; and again, where the Senate is secured in the right of electing its President *pro tem.* and other officers. Mr. B. then alluded to the early practice of Congress, which had been conformable to the constitution, and proceeded to state that, in 1819, a joint resolution of the two Houses was adopted, creating the office of public printer, and providing for the election of that officer. He said, for the first thirty years of the action of this Government, there was no public printer; while Congress sat at places where it could supply itself, each new Congress was its own purveyor. When it came to a place where supplies could not be obtained, except upon time and notice, the expiring Congress kindly and providentially took upon itself the business of procuring supplies. This assumption on the part of the expiring Congress was gratuitous and unauthorized. The new Congress, not yet born, could not have created an agent to do this business. The fact of vital importance, whether the new Congress was to have a friend or an enemy for its printer, might depend upon the time when he was elected, and thus it became necessary for the new Congress to stand upon its inherent and constitutional right to reclaim the election for itself, and, if not successful in the reclamation, to exercise its indisputable power of rejecting the printer that was imposed upon it. Mr. B. remarked that was what he had done, and was doing—he complained that his resolution had been referred to a committee which had not reported upon it—said that he could have shown that all the reasons which induced the expiring Congress to provide a printer for the new Congress had ceased; that the District now abounded with printing materials; that a printer chosen the first week of the session would be ready as soon as necessary to do the work that would be required of him; that the printer was an officer, and an important officer of the two Houses; that he was a confidential officer, having their secret proceedings in his hand, and almost their masters, from the power which the public printer, in his character of editor, had over the publication of the proceedings of Congress, in suppressing, mutilating, and disfiguring the speeches and occasional remarks of some members, while bringing out all that is said by others to the best possible advantage."

These views are sound. They are hailed by myself, and many gentlemen who I see around me, as containing the true doctrine of our party, which had watched with so much jealousy all encroachments upon the constitution. It has been our pride and boast, that the venerable and patriotic man now filling the executive chair of the nation was the shield of the constitution. And

shall we forget all this? Shall we say that right reason, and sound constitutional doctrines, are one thing in the Senate and another in the House of Representatives? That our constitutional opinions change with the seasons? No, sir. Let us not bring reproach upon our party and its head, but rather elevate both in the world's estimation, by rescuing the constitution, instead of inflicting upon it another blow. Mr. Benton is correct. This House has the inherent as well as the constitutional right to elect its printer. The constitution says "each House shall keep a journal of its proceedings." To do this, it must have the power to elect a Clerk. "And from time to time publish the same." How publish? Does not this important duty imply the power of providing the means to perform it? How can the laws and proceedings of this House be published without a printer? The power to elect the printer is conferred in the obligation to publish. Again, the constitution confers upon each House the power to determine the rules of its own proceedings, secures to the House of Representatives the right to choose its Speaker and other officers; and to the Senate the right to choose all its officers.

Now, sir, I care not whether you consider your printer an officer of the House, or put him upon the footing of stationary, or fuel, or any other supply; the principle is the same. These are my reasons for the vote which I gave, and mean to give, on this question. I have carefully avoided all remarks which might give offence. My object has been to conciliate support for a measure in which my district and my State take a deep interest. If the election of printer is forced on at this session, I have discharged my obligations to my constituents—I have redeemed a pledge too long, but unavoidably, delayed. And, sir, if I am compelled to vote for that officer at this session, I will vote for that uniform, firm, and consistent Jackson man who I think best qualified, if there should be more than one of our party running, though it would be a pity for two to run, as it would look like splitting the party. But which of them would be obnoxious to this charge could not be determined until after the election, and then it would justly fall on the meddling fellow who was beaten, and he should be forthwith handed over to a sergeant and drilled into submission, and directed to turn his attention to history—biographical history.

Mr. Speaker, is it in order to move a commitment of the resolution and amendment to a committee, with instructions to report? I move, sir, that the resolution and amendment be committed to the Committee on the Judiciary, with instructions to report the following resolve:

Resolved, &c. That the election of printer to each House of Congress shall hereafter take place within the first week of the first session of each Congress, and that all elections by the two Houses shall hereafter be decided by a *viva voce* vote.

Mr. POPE, of Kentucky, observed that he would embrace this opportunity to make a few remarks on the resolution before the House. He would not have submitted the resolution, but, inasmuch as it had been offered by another, and as he intended to vote for it, he felt disposed to assign, very briefly, his reasons for doing so. He was unwilling to vote for the amendment proposed by his colleague, [Mr. HARDIN,] and for the motion made by the honorable member from Tennessee, [Mr. PEYTON,] for reasons which he would not pause to explain. He did not think, as had been intimated, that the fundamental principles of our constitution, or of free government, were involved in the vote on the resolution. He believed that the great fabric of our free institutions was too firmly constructed to sustain any serious injury by the rejection of the resolution; but, on the other hand, he believed that its adoption was calculated, in no small degree, to secure the fidelity of the representative to his constituents. He would not stop to inquire whether the printer of the House was an officer of the House, or whether he was embraced within the object and meaning of the resolution. Such an inquiry he deemed, at this time, out of place and irrelevant. It was enough for him that there were officers of the House, the mode of whose election the resolution proposed to change. He inquired why the House should not substitute the mode of election by *viva voce*, for the existing manner of election by ballot. He had listened attentively to the remarks of honorable gentlemen, and he would say, with all deference and respect for them, that he had heard few sound reasons advanced against doing so. One objection that had been earnestly urged against the resolution was, that wise and patriotic men had established the rule sought to be abolished, and they had never deemed it fraught with evil. He could say that he felt as much respect for the opinions, and wisdom, and the authority, of ancient practice, as any man did, but he was unwilling to receive them as incontestable maxims, unless they were supported by some better argument than the mere declaration that they were the dicta of the virtuous and the wise. Many a patriot and sage, he said, lived before the memorable year of 1776, and died in undoubting confidence that the scheme of republican government was visionary and impracticable; yet this did not deter our revolutionary fathers from repudiating the creed of ages, and, in despite of consecrated dogmas, boldly erecting the Government under which we live. He was willing to pay a decent respect to the opinions of others, but he did not esteem them too consecrated to be disputed. Whenever we thus profoundly defer to the opinions, either of the living or the dead, improvement will be arrested, and retrocession commence. Let some more legitimate objection, then, be advanced by the opponents of the resolution, than that it proposes to abolish a mode of election hitherto employed by the wise and patriotic of the House of Representatives.

Mr. P. further observed that he thought the powers, duties, and influence, of the Speaker of the House, furnished strong necessity for the adoption of the resolution. It is a station, he said, of honor, authority, and commanding influence. He did not believe it had ever been done improperly by any Speaker, but he did know that the incumbent, whoever he might be, had it greatly in his power to form or warp public opinion. This he could effect by the formation of the committees of the House. He could give them what political complexion he pleased. Although the Speaker is an officer of the House, yet who will venture to say that the people take no interest in the choice of that officer? They always feel a profound interest in the selection, and would be pleased to know for whom their Representatives cast their votes. Sir, (said Mr. P.,) they ought to know; they ought to have the means of knowing. Their confidence may be abused by a Representative in this very case. He asked what valid reason could be assigned why they should not know. It had been said by the gentleman from Georgia, [Mr. GILMER,] as Mr. P. understood him, that the proposed change was big with peril; that it would bring the Representative of the people within the reach of executive patronage, and subject him to the yoke of executive dominion and influence. This Mr. P. understood to be the substance and meaning of the gentleman's remarks. He had great respect for the gentleman from Georgia, but he differed with him widely. How (inquired Mr. P.) will the proposed change effect this? The gentleman from Georgia had not pointed out how it would be effected. Mr. P. considered that the converse of the gentleman's position was true. If a Representative be still allowed to vote by

ballot, he might indeed prostitute his station, and meanly sacrifice his own independence and the will and interests of his constituents, to executive or other improper influence; for there will be no means of detection. He might, without the knowledge of his constituents, pander to the appetite and taste of those whose favor he sought to obtain by such degrading means. He might deposite his ballot for one man, and his constituents believe he cast it for another; but if he be required to vote *viva voce*, there will be less danger of his self-abasement and treachery, because he must encounter the rebuke, the frowns, and scorn, of his constituents. On the other hand, it may be said (remarked Mr. P.) that the Representative will be often driven to vote against the dictates of his judgment, from fear of offending his constituents; but as ours is a representative Government, based upon the public will, he thought it was better and more safe that he should stand even in terror of their judgment, than that he should possess the means of eluding their vigilance.

He remarked, in conclusion, that he had no agency whatever in offering the resolution. Indeed, he did not know that the honorable mover intended to submit it. The vote he should give was directed against no member of the House. Although he should vote for the resolution, he had no doubt those who would vote otherwise were actuated by pure and honorable motives. He was much attached to the mode of voting *viva voce*. It was a cherished principle with the people of the State whence he came. It was a mode used by themselves, and by their Representatives in the State Legislature, and they had never yet experienced any injury or inconvenience from it.

Mr. VANDERPOEL said it seemed to him that no good reason could be urged against the passage of the resolution under consideration. It involved a question of great importance, viz: whether the Representative could in justice, without special constitutional leave, be permitted to execute his agency in such a manner as to exempt him from responsibility to his principals, the people.

Mr. V. said he held to the broad principle that, as Representatives, we should do no act here, the knowledge of which might be concealed from the people; that the principle of giving a secret vote was anti-republican, and wholly incompatible with responsibility to the source of all power, which lies at the foundation of all our institutions. The creator should always know, or have the certain means of knowing, the acts of the creature, especially when the latter was commissioned only to execute the will of the former.

He asked upon what principle the practice of here giving a secret ballot vote could be justified. It had been said by his honorable colleague, [Mr. FILLMORE,] who opened the first battery upon this resolution, that the people themselves, in many, if not most, of the States, voted by ballot, and, therefore, the practice was sanctioned by the highest authority. Another honorable gentleman, from Georgia, [Mr. GILMER,] who spoke so seldom in this House, but always spoke so well, had told us that the voting by ballot here was calculated to secure the most upright and independent execution of this appointing power, with which we are invested. Let us examine, for a moment, into the soundness of these positions. He (Mr. V.) contended that the circumstance that the people sometimes vote by ballot, in the exercise of their sovereign power, was not a precedent to justify the practice here, acting, as we here do, in a representative capacity. The gentleman from Tennessee Mr. PEYTON,] who had just delivered an able argument in favor of the amendment he had introduced seemed to imagine that the resolution involved an imputation upon the people of those States where they voted by ballot, and felt himself called upon to shield the people from such imputation and reproach. In his (Mr. V's) humble opinion, the people required no such vindication for the exercise of their undoubted right, because their right to vote by ballot was unquestionable. The people, the sovereigns, are responsible to no one but themselves. When they vote they do it in execution of their own business. Whereas, when we vote, we do it in execution of the business of our constituents. Because a man, sir, has a right to conduct his own operations secretly, it by no means follows that he has a right to conduct those of another in such manner as that his principal, and the party interested, cannot learn the manner in which his affairs are managed. Let not, then, our right to vote secretly, by ballot, be inferred from the practice of the people themselves. To attempt to derive such a right from such a source is confounding all distinction between master and servant, and between principal and agent. Gentlemen who seek to deduce the right to vote by ballot here from the practice of the people, seem to forget that, although we are "dressed up in a little brief authority," we are nevertheless responsible agents, bound to execute the will of those who have clothed us with that authority, and that it is the right of those who have delegated to us the high trusts which we are here called upon to execute, to know the manner in which we execute them. It struck him (he spoke with all possible respect for those who urged it) that the contrary doctrine was founded in a disregard for, or a forgetfulness of, the relations in which we stood to the sovereign creating power.

A word now, sir, as to the benefits claimed by the gentleman from Georgia, [Mr. GILMER,] from this secret mode of ballot voting. He told us, in substance, that this practice was calculated to ensure the most independent exercise of the right or duty on our part. I suppose he means by this, that if we vote *viva voce*, delicacy might sometimes restrain or embarrass us. This struck him (Mr. V.) as the feeblest of all reasons that could be given in favor of the practice of voting by ballot. The fear of offending candidates or parties interested! What an ignoble feeling, sir, to control or affect, in the slightest degree, the action of the Representative. Why, sir, we should, if this be a valid reason, or a sound argument, extend the principle—we should at once make the effort to amend the constitution, so as to abolish the yeas and nays, because, in the ordinary course of legislation, we have questions here every day eminently calculated to exercise and try our delicacy. We are not unfrequently called upon here to vote for claims preferred by our friends, and to vote against them too, sir; and then we a reexposed to the reproaches, if not the implacable enmity, of those friends. Now, sir, permit me to propose a remedy for all this inconvenience to which we are thus exposed. Let us alter the constitution, abolish the yeas and nays, and tell the world that we "love darkness rather than light," because our daylight deeds have exposed us to the querulous moanings of our friends.

Why, sir, upon what ground of principle should there be a difference between the operations in this hall and those at the other end of the building, when we appoint to office? The Senate sits with closed doors; but the journals of that body are always published; and the people of the United States have the means of knowing how the representatives of the States vote upon executive nominations. And the brief existence of this Government has already taught us that the people do not always regard the votes of honorable Senators upon executive nominations with indifference or unconcern. No, sir, we can adduce memorable instances to show that the sensibility and indignation of the people have been awakened against the representatives of the States,

for what they deemed an exceptionable exercise of this power. There were not wanting instances in which the people had reversed the sentence of unworthiness which the Senate had seen fit to pronounce. He would ask if the votes and proceedings of the Senate, when acting on executive nominations, should always be concealed from the people, if they not only sat with closed doors, but if their journals were always kept secret, how long would the people submit to a practice so repugnant to popular sentiment? That august body would then soon, very soon, sir, in the estimation of the people, acquire all the odious features of a Spanish inquisition.

But a new discovery had been made by his honorable colleague, [Mr. FILLMORE,] whose extraordinary perspicacity and microscopic vision sometimes enable him to see distinctions that were not visible to ordinary optics. My honorable colleague has started the idea that there is a fair distinction between voting for officers of this House and officers of the nation, and that, as the officers embraced in the resolution under discussion are merely officers of this House, we have an indubitable right to elect them by ballot, and in such a manner as that the people may not be able to know how we vote. Sir, with all due deference to my honorable colleague, (who, from his professed repugnance to all secret operations, and secret societies, is the last man on this floor whom I could suppose would be the first to come out in favor of secret voting,) I must be permitted to contend that there is no soundness in this distinction, so far as it concerns the principle we are now discussing. How arrogant the idea that the officers which we here choose are our officers? What are we, sir, (I speak of our official capacity,) but the property of the people? When we speak of the officers of this House, do we mean to speak of instruments that belong exclusively to ourselves, and in which the people have no property or interest? With whose moneys are they paid? The people's. Whose business are they appointed to execute? Not our own individual business, but that of the people. And may not the people, then, fairly feel some little interest in their election? Have they not a clear right to know what servants they, through their Representatives, have chosen, especially when their own money is to pay the hire of the laborer?

The honorable gentleman from Georgia, [Mr. GILMER,] in the zealous and animated speech which he made on Saturday told us, that the people generally neither know nor care who are the officers of this House. This, said Mr. V., (he spoke with great deference to that honorable gentleman,) was presuming entirely too much upon the ignorance and indifference of the people. It was not his (Mr. V's) good or ill luck to be blessed with constituents so ignorant or so indifferent to the doings of their Representatives. They believe and know that the sentiments of those who represent them may be as emphatically indicated and expressed by the election of the officers of this House as by any other means; that an election for these officers may indeed involve much of principle. Take, if you please, the case of Speaker of the House; consider his power and patronage, the power of appointing all the committees, which have very properly been called the eyes and organs of the House; the power of controlling, in a great measure, the order of the business of this House, and of giving an impulse to, or thwarting or impeding, great measures that may call for the action of this House. Is it, in truth, a matter of moonshine to the people, who is elevated to this high and responsible station? Let the gentleman ask the free trade elector of the South, when the cry of "give—give us more protection," is raised by the manufacturer of the North and East, whether he feels any interest in the election of the Speaker of this House; ask the northern manufacturer, at such a crisis, if it is or is not his interest or desire to know whether his Representative has voted for a free trade or an ultra-tariff Speaker, and you cannot be at a loss to conjecture what the answer would be. Wo to that Representative who should, at such a conjuncture, dare to violate the will of his constituents! He would not be able to plead in bar to the denunciations of an indignant people the plea of the gentleman from Georgia, that the Speaker of this House is the officer of this House, and that he supposed the people generally did not know or care who were the officers of this House. Those gentlemen who, on such an occasion, should calculate so fatally upon the ignorance and indifference of the people, would soon enjoy a privilege which is oftentimes vouchsafed to the best of gentlemen—I mean, the privilege of staying at home.

Or take, if you please, the case of printer to this House. It requires no very vivid imagination to fancy a choice of printer that would do violence to popular feeling. Suppose this office to be conferred upon a man whose whole life had been devoted to the dissemination of principles to which our constituents are mortally opposed—to doctrines subversive of equal rights and equal privileges—yea, of the liberty of the people. Think you, sir, that the people would be supine and indifferent, if we lavished the most lucrative patronage of this House upon such a man? Would they be apt to say, "you have done well by rendering more potent the incendiary's capacity for mischief?" Let us make the experiment, and we will soon hear a response from the ranks of an outraged and a sharp-sighted people; a response, too, that will not be distinguished for stoical indifference or extraordinary ignorance.

An honorable gentleman from Massachusetts [Mr. BRIGGS] who, a few days ago, betrayed more warmth on this subject than usually belongs to that Spitzbergen region to which he and I belong, pleaded most eloquently for the practice which the resolution upon your table proposes to abolish, because it was a very old practice—our wise fathers had originated it—it had now obtained for forty years, and therefore our sacrilegious hands should not now touch it.

Sir, said Mr. V., I am no believer in the doctrine that an error is less an error because it is an old one. Sin itself is not less to be lamented and deprecated, because it dates back to the garden of Eden. You are constantly changing your laws, involving great principles; your States have, many of them, changed and vastly improved their constitutions; and is this to be regarded, sir, as a reflection upon the wisdom of our fathers? No, sir. It only proves that we are not such bigoted admirers of all that is old as to reject the improvements that may be suggested by time and experience. Let the apologists, the advocates of monarchs and despots, plead for the wisdom and sanctity of their despotic institutions, because they are covered with the dust and the cobweb of ages, it is our principle, yes, our duty, while making the grand and triumphant experiment of free government, to repudiate error and embrace improvement, though the genius of antiquity may scowl and shake her hoary locks. We live, sir, in an age of improvement, and that is indeed a false and shortsighted philosophy, a philosophy which has no deeper foundation than poetry, which inculcates the wisdom of always "bearing the ills we have," lest we incur the risk of encountering "others that we know not of." One of the beauties of our republican system of government is, that it can accommodate itself to changes which time and circumstances may demand. Its charm is not the inflexibility of a despotism—no, sir, it is not unbending to the spirit of reform and improvement. In its veneration for the past, it is not blind to the treasures which lie in the future.

The resolution under consideration, sir, seeks to establish a great abstract principle, resulting from the relation in which we stand to the people, and yet gentlemen who have opposed its passage have seen fit to discuss the resolution on the assumption that it was introduced solely in reference to the printer of this House; and a most labored attempt has been made to show that a printer is not an officer, but a contractor. Sir, I consider such topics wholly irrelevant. To talk about a printer to this House is, indeed, belittleing the subject under discussion. A resolution is introduced to establish a great principle of popular right, and gentlemen take it upon themselves to narrow down the discussion to the query whether it will change the mode heretofore pursued of electing the printer of this House. I have endeavored, sir, to take a more elevated view of the principle which the resolution contains, as having higher objects and higher game than the mere printer of this House. First establish a rule, a principle, sir, and when we are called upon to go into elections, it will be time enough to inquire what officer comes within the rule. It is, however, wrong, sir, to contend, as some gentlemen have contended, that the resolution for this session and that Congress must necessarily be perfectly nugatory, as to every officer except the printer to this House. You, Mr. Speaker, are not immortal. The Clerk, the Sergeant-at-arms, and all the officers of this House, may be called upon to pay the great debt of nature before the termination of this session. I sincerely hope, sir, that we may not be called upon to fill any vacancies; but that the occasion for doing so, is beyond the range of possibility is contending entirely too much.

It is somewhat strange, sir, (if, to follow the bad example of other gentlemen, I may be permitted to say a word about public printer,) it is "passing strange" that, while honorable gentlemen contend that your public printer is so amply fortified by certain joint resolutions, passed in 1819 and 1829, one of the most vigilant and talented gentlemen on this floor (he meant the gentleman from Kentucky, Mr. HARDIN,) should have found it necessary to offer a proviso, in order to save your public printer from the operation of the resolution now under consideration. A long discussion has already been had upon the question, whether the joint resolution of the 5th February, 1829, repeals the resolution of the 3d March, 1819, as it regards the manner in which we are to vote for printer. The last section of the resolution of 1819 provides "that this House shall proceed to ballot for a printer," and the resolution of 1829, which is amendatory of the former resolution, provides "that, within thirty days before the adjournment of every Congress, each House shall proceed to vote for a printer to execute its work for and during the succeeding Congress; and that the former resolution, so far as it is altered by the latter resolution, be repealed. Permit me here, sir, to urge an idea that does not yet seem to have suggested itself to gentlemen. I contend that the last section of the resolution of 1819, which provides that the two Houses shall "ballot" for a printer, expired with the Congress that passed it, and by its own limitation. It provides "that, as soon as this resolution shall have been approved by the President, each House shall proceed to ballot for a printer, to execute its work during the next Congress." It does not provide that each and every Congress thereafter should elect a printer for its successor, but simply that that Congress (of 1819) should elect a printer for the then next Congress. It is said, however, that the act of 1829, by repealing so much of the first resolution as was altered by the last, shows that the whole of the first resolution was intended to be permanent. To this I answer, that the resolution of 1819 contains various sections and provisions besides that which prescribes the manner of electing a printer. But, again, if it be true that the last section of the resolution of 1819 had performed its office, after the printers for the two Houses in 1819 were appointed, I am not aware that the repealing words contained in the resolution of 1829 can revive that which was already defunct. He was not aware that the repeal of a certain portion of a dead statute revived the residue. He had always supposed that dead things were void things, and that void things were as no things.

He could not forbear here to remind the House that the constitution provides that the yeas and nays may be called at the request of one fifth of the members present. Why do gentlemen daily call for the yeas and nays, but to present the members of this House to their constituents, and to awaken that sense of responsibility which our position here naturally implies? What an incongruity this, sir. You have a right to call the yeas and nays upon a proposition to appropriate the paltry sum of ten dollars, and yet, when the officers of this House, possessing so much power and patronage, are to be chosen, it is said to be best, and most conducive to our own independence, and to the interest of the people, to give a secret vote. Was it necessary further to comment upon the unsoundness of such an argument?

He would, also, before he sat down, take occasion to premise that the mode of voting *viva voce* for the officers of this House would very much tend to the saving of time, because it is much the most convenient mode; we should by that means avoid the fuss and parade that now distinguished our elections: the trouble and detention of first collecting the ballots, and then appointing tellers to go through the tedious ceremony, not once, but sometimes eight or ten times, of canvassing the votes, would be obviated. Had gentlemen forgotten the time that was consumed here a few months ago in the election of a chaplain? He meant nothing derogatory to that repectable office, when he said that all this parade and ceremony, and consumption of time, were beneath the dignity of the House; but he freely confessed that the point of convenience was a minor one, and was swallowed up in the question of principle. The relation in which we stood to our constituents required an open and manly discharge of all our duties here. Delicacy, the fear of offending our friends, these motives weigh but a feather against the right of the people to know what we do in execution of the high trusts confided to us. We should always remember, as a general rule, that honesty requires no concealment, that justice holds no communion with secrecy and darkness.

Mr. PEARCE, of Rhode Island, said he would be willing to adopt the views of the gentleman from Illinois, [Mr. REYNOLDS,] who proposed this resolution, so far as to say that, hereafter, the officers of the House should be elected *viva voce*, whenever a majority of that House, by express declaration, should require it. Thus far he would be willing to go, but no farther. This was not a new question in the House. He well remembered that, about six years ago, an honorable member from Kentucky made a similar proposion. Mr. P. said he then thought it unfortunate for the proposal, as it was now, that it was offered for consideration after the long session of Congress was passed, and we had come nearly to the close of the short session, and were just about going into the election of the public printer. It had been contended that some great and fundamental principles were involved in this question. If so, why was it now agitated by those gentlemen for the first time? Where had they been all this time, that this subject, of such vital interest, had been suffered to rest *in statu quo?* Why had they been thus long forgetful of those great principles? Mr. P. said it was useless to disguise the matter; we had better speak of things as they are: it was designed to apply, and did apply, to the election of printer, and to

nothing else. On that question Mr. P. was willing to give his vote *viva voce*. He was willing to, and would now, declare for whom he should vote to fill that station. It would be for the candidate who had consistently and faithfully adhered to and supported the administration. It would be for him to whom he believed it of right belonged. In short, he should vote for Mr. Blair, if that gentleman was a candidate before the House. But he could not consent to alter or abolish what he believed to be a most salutary rule as applied to all the other officers of the House. The Speaker, the Clerk, the Chaplain, the Doorkeeper and his assistants—even the very boys in waiting, if the House thought proper, might be chosen by ballot.

Mr. P. said he understood that the Legislature of Illinois, the State from which the honorable member [Mr. REYNOLDS] who introduced the resolution came, elected their officers *viva voce*. It might be so in some other instances; but more than two thirds of the States conducted their elections by ballot; and he apprehended, if the question were taken by States on that floor, there would be found a large majority opposed to a change of the rule. In his own State, the vote by ballot prevailed in all excepting one vote, which might be considered a *quasi* ballot. He could not, therefore, directly or indirectly, sanction by his vote a course which he deemed improper, nor did he wish to see a future Congress influenced by any act of the present. If the gentleman from New York [Mr. VANDERPOEL] was so much attached to the democratical principles of the vote *viva voce*, why did he not, while a member of the Legislature of that State, endeavor to secure its blessings to his constituents? Why not have the elections in New York, *viva voce*, like those of Virginia and Kentucky? What, he asked, would have become of the late election in the city of New York, had it been conducted *viva voce?* How would the democratic party have stood against the wealth and power of the whigs? The very votes of the democratic party would have lost the voters their employment and their bread. They were compelled to wear secret badges on their coats and hats, by which to distinguish each other. Gentlemen may say this state of things ought not to exist. But, as they do exist, we must meet the exigency. It was right sometimes to do good by stealth, covertly and secretly. The state of things fully authorized it. Mr. P. said, if the vote *viva voce* was to be adopted here, a very different complexion of affairs would soon be exhibited. He was undisguisedly opposed to this system of special legislation. He was, indeed, opposed to the adoption of any rule for the government of those over whom we could have no control. For his own part, he had never given a vote there that he was unwilling to avow. But it had been said the people had a right to know the votes of their Representatives. Now, he had never discovered that the people had ever evinced any great curiosity on the subject.

The present system had prevailed for forty years, and the people had manifested no special anxiety for its change. When they did so, it would be time enough to act in the matter. The gentleman from New York went on the ground that the course hitherto pursued had been erroneous. If such were the fact, he had only to repeat the inquiry which he had before made—why had they thus long slept upon their oars? Why did they not earlier seek a correction of the evil?

Mr. P. here alluded to the circumstances attending the first election of General Green as printer to the House, and said, perhaps he ought to apologize for the frank manner in which he had avowed his intention of supporting a particular candidate at the next election on party grounds. In the city of New York this principle had been carried to its utmost extent, embracing its street commissioners, and, he believed, its chimney sweeps. Nay, the leading daily papers openly called upon their adherents to support none but whig butchers, whig bakers, and whig every thing. If this principle was so universally recognised elsewhere, why should it not be here? The Globe was the accredited organ of the Government and of the democratic party, and as such should be sustained by it. In the city of Philadelphia the principle was extended to the watchmen; and, in his own town of Providence, to the constables and the town-crier—none were allowed to cry but a whig. He was, therefore, for Mr. Blair, against any Judge White man, any John McLean man, or any Daniel Webster man.

Mr. P. repeated that he was opposed to this special legislation. If the rule should be adopted, what would be its effect on the election for Speaker in the next Congress? It was not always the most prominent candidate on the first ballot who was finally elected. Such was the case with the honorable gentleman now in the chair; and when the honorable P. P. Barbour was elected, he received but fourteen votes on the first ballot. It was true, he did not believe that any man who voted for the present Speaker was unwilling to avow it, but it was the evils which we hazard by the change which he contemplated. Mr. P. said their constituents had not instructed them on this subject, nor did he believe they called for any action upon it. The constitution provided that "the yeas and nays of the members of either House, on any question, shall, at the desire of one fifth of those present, be entered on the journal." This, he thought, was quite sufficient to secure ample publicity on all votes specially interesting to the people. It was all they desired, and as far as he was willing to go. He would support the proposition if so amended as to say that, on the call of a majority, the vote should be taken *viva voce*. But he did not deem it necessary to compel members to hold up their hands on all occasions, to prevent them from looking one way and rowing another; nor would he presume fraud in them until there was some evidence of its existence.

Mr. GILLET said he should not have claimed any portion of the time of the House upon the present occasion, but for the fact that he represented, in part, a State which held the ballot-box system in high estimation, and for the further reason that his colleague [Mr. FILLMORE] had presented, in a forcible manner, the reasons which could be urged against the resolution, which seemed to him to render it necessary that he should succinctly state the reasons for the vote he intended to give. Many gentlemen had expressed, in strong terms, their disapprobation of the introduction of this resolution. Mr. G. said he had no agency in its introduction, and was not responsible for the act, though he attributed its origin to noble and generous sentiments entertained by its author, and those whom he represented. Whether its presentation at this time was politic or not, or whether it would be inoperative or not, was not the question. The real question is, whether the principle asserted is a correct one or not. This is the true question, and he must give a vote for or against it.

It had become necessary to inquire whether the constitution controlled our decision on the question. This was a question of some doubt. He could not agree with the gentleman from Massachusetts, [Mr. BRIGGS,] that because the constitution had declared that certain elections should be by ballot, that it followed that the election of officers of this House must be conducted in the same way. If there was any inference to be drawn from thence, it must be the reverse. The constitution gives this House power to "choose their Speaker and other officers," and to "determine the rules of its proceedings," and under these powers we must act. The constitution itself affords but little light to aid in determining the question, except the fifth section of the first article,

which declares, "each House shall keep a journal of its proceedings, and from time to time publish the same, except such parts thereof as may, in their opinion, require secrecy, and the yeas and nays of the members of either House, on any question, shall, at the desire of one fifth of those present, be entered upon the journal."

Mr. G. said he presumed no one would contend here that our election of officers would come within the meaning of this clause, so far as relates to secrecy; but the intention of the constitution was to conceal such discussions as those that preceded the late war, which it was believed to be for the interest of the nation to be concealed for a limited period. Until gentlemen opposed to this resolution can prove that the election of officers of this House is not any question, the clause of the constitution just cited will be considered by many as having an important bearing, if it is not decisive of the question. If it is not decisive of the point, then the House is left free to decide it upon the ground of expediency and propriety, and in such manner as shall best accord with the genius and spirit of our republican institutions.

Here, however, we are met with what is called precedent, which is so powerful as to sanctify the errors of the past, and to perpetuate them for the future. This is the doctrine which sanctions the divine right of Kings, gives the old world its accidental lords and other similar favors, which gives wealth, titles, and power, to the few, and dependence and poverty to the many. Thanks to our fathers, these political heresies were repelled from America by the thunders of Bunker Hill, and our titledeed to better principles is not only enrolled on that parchment called the constitution, but it is registered in the heart of every American freeman. But how stands precedent on this subject? My colleague [Mr. FILLMORE] the other day, speaking on this subject, said:

"His own opinion with reference to the appointing power of this Government, and of all Governments similar to our own, was, that where the legislative power or body exercised the appointing power, peculiarly and especially for itself--that is, for its own internal rule and regulation, and not for the nation at large--then that power might, with great propriety, be exercised by ballot; and he believed that to be the practice in most legislative bodies in reference to the appointment of those officers who might be considered special officers of the body, but not of the nation. This was the practice in Mr. F's own State, (New York,) and he really could see no objection to it in principle or practice any where else. It appeared to him to be correct to give the people at large, when they exercised the right of suffrage, the power to exercise that right in secret, by the ballot; and it was equally so to extend the same privilege, the same right, and the same authority, to their Representatives, when acting for themselves in the election of those officers peculiarly belonging to the body to which they were elected."

Now, how was the fact? Mr. G. said he desired it to be distinctly understood that he did not himself allude to his native State, (New York,) for the purpose of invoking the aid of her precedents to guide or justify us for acts done here under another constitution, but merely to put his colleague right on the subject of the doings of that State, as a precedent. It would be borne in mind that his colleague [Mr. FILLMORE] had taken the ground that officers of legislative bodies were the servants of the body, and not agents of the people, and, in enumerating them, he said:

"The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment." This, then, was the extent of the appointing power in that House to "choose their Speaker and other officers," alluding, doubtless, to the clerk, sergeant-at-arms, messengers, doorkeepers, &c.

Here the officers he would include are enumerated. Now for the facts. The journals of the Assembly, in New York, he had examined as far back as 1820. In that year, the sergeant-at-arms, doorkeeper, and his assistant, were appointed by motion or resolution.

In 1822, the same officers were appointed in the same way; and in 1823, the clerk was in like manner appointed. In 1825, the sergeant-at-arms, doorkeeper, and his assistant; and in 1826, the two latter officers were appointed by resolution; and in 1827, all these officers, including the clerk, were appointed in the same way. So in 1828, of all but the clerk. In 1829, 1830, and 1831, my colleague, creditably to himself, occupied a seat in the Assembly; and in those years, as well as in 1832, 1833, and 1834, in this very year, the clerk, sergeant-at-arms, doorkeeper, and assistant doorkeeper, he believed all, were elected on motion or by resolution. Mr. G. said he had not now access to the journals prior to 1820, but he had been informed by one who could not be mistaken, that, anterior to 1820, a Speaker had been elected by resolution.

His colleague must pardon him for saying that, although he entertained the highest respect both for his talents and integrity, and esteemed him as a friend, he must say little in favor of his memory, when he had forgotten to inform the House that, in 1830, while he was in the Assembly at Albany, a Speaker *pro tem.* (Mr. Savage) had actually been appointed by resolution or motion; and his colleague, [Mr. FILLMORE,] and four others of his colleagues, had voted on that occasion. He believed it was conceded that all officers elected by the Legislature, except officers of the House, were voted for *viva voce;* and after this review of the precedents, he was of opinion that little could be drawn from that quarter, in form of precedents against the resolution.

But we were referred to this House for precedents. He had not found a precedent for electing a Speaker by resolution or motion, but a large majority of all the officers of this House, back as far as the last war, (and he had not been able to examine further back,) had been elected by resolution or on motion. From 1813 to 1829 he believed the sergeant-at-arms had regularly been appointed by this House either on motion or resolution. And from that period to this, with but two exceptions, its doorkeeper, with but one of its assistant doorkeepers, had been appointed in the same way. In 1819 and 1821, Thomas Dougherty was chosen Clerk in the same manner. In 1823, 1825, 1827, 1829, and 1831, Matthew St. Clair Clarke had been chosen Clerk of this House in this same way. Will gentlemen after this refer to this House for precedents to establish the propriety of choosing "clerks, sergeant-at-arms, messengers, doorkeepers," &c,. by ballot? He would submit it to the House to say whether these precedents not only did not prove the point contended for by his colleague, but the reverse. He was confident, after this exhibition of precedents, it would not be pretended that they had settled the question, but that it at least left the question with the constitution, where we found it.

But (said Mr. G.) we are told by the gentleman from Georgia [Mr. GILMER] that the members of this House may fall under executive displeasure if they vote independently and against his will, and in that manner the just independence of this House will be endangered. It here may be asked, how the faithful Representative in this House could, if he acted rightly, in accordance with the views of his constituents, be in danger of this dreaded influence? The Representative depends upon his constituents, and not upon the Executive, for his employment. To his mind there was more danger that he would here vote in a concealed manner, and unknown to his constituents, to please the Execu-

tive, who could more readily than his constituents ascertain how he voted, than to vote openly in a manner to displease those whose suffrages had sent him here. The danger of a secret vote was, that those at a distance, the electors, would be the persons whose wishes would be disregarded. Vote openly, and experience proves that the Representative usually looks to the source of the power which rules his future agency here. There are those, however, who have not acted on these subjects as was desired by their constituents, and their fate is written in the history of the times. His own State had furnished a prominent instance of the will of the people being violated, and of their inflicting summary punishment.

The gentleman from Georgia [Mr. GILMER] desired to know whether the people knew or cared about the election of these officers. He did not believe there were "ten men in Illinois who knew who these officers were." He could not vouch for what the good people of that State knew on this subject; he could only draw conclusions from the judgment displayed in selecting their Representatives. He believed the gentleman was much mistaken: he certainly would have been, had his remarks been applied to those whom he (Mr. G.) represented. They understood these things thoroughly. What! do not the people know who the Speaker is, and is he so small a light? Is that man, who has more power in shaping and controlling legislation than any other in the nation, one of such small consequence as not to be known to the people? But the gentleman from Georgia and my colleague say that the officers of the House are our agents, and the people are not interested in their selection. Is this so? Is it of no consequence to the people whether the officer who brings money to pay us is honest, or runs away with it, as has actually happened? Such losses, it is known, fall upon the people.

The Clerk of this House disburses a contingent fund of several thousand dollars a year, and has charge of much of the people's property, and has a large patronage in the appointment of officers. Is it to be supposed that the people neither know nor care who holds this office? Our doorkeeper has the appointment of almost as many officers as some small States. The Speaker also appoints many persons about the House, and has charge of the furniture of the hall. In the faithful disbursement of money, in the preservation of property, and in the faithful discharge of the duties of all the officers of the House, the people have a deep interest, and we have but little. If the people were as ignorant and careless about who and what the officers of the House were, he would ask how it happened that the acts of a late Speaker of this House, in the appointment of committees, were made a prominent ground for his rejection as minister to England? It is a little extraordinary, if that grave body had fastened upon the acts of an officer of this House to justify his rejection, when in a whole State not "ten men" knew who the officer was, and when they did not know or care any thing about his election. This was presuming largely upon the ignorance and carelessness of the people. He (Mr. G.) must abide by the conclusion that the people did know and care about these things.

He knew nothing of the facts upon which rumor had predicated her news, but certain it was that her tales had led the people to inquire much after our ballot-box transactions here. Whether there was any thing wrong or worthy of censure, was not for him to say. He had, however, been asked to know why, on a recent election for Clerk of this House, there had been more ballots than legal qualified voters and why a recent candidate for printer of this House had not been declared elected, when he had been able to prove he had had a majority of all the votes? Inquiries about the election of other officers had been made, and he had been unable to answer, because he did not know; and this had been his reply. The response was, "Vote openly, and let us know how these things are done, and by whom." Such were the sentiments of all who had spoken to him on this subject, and he doubted not that such would be found to be the views of all in relation to the doings of their agents here.

Mr. G. thought this the true ground, that, when we vote as citizens, in the exercise of free, full, and untrammelled sovereign power; when we are accountable only to ourselves and our Maker for our acts; when no one had a right to question our motives, or call us to an account for our doings, we should vote by ballot; and when we voted in our representative capacity, we should vote *viva voce*, or by yeas and nays. In the chivalrous West, from the glowing accounts of their independence, and exemption from reliance upon others for support, it would seem that the ballot-box was of less moment than in other parts of the world. But there might be places, such as large cities and manufacturing towns, where things were differently situated. There might be men who had others, even hundreds of them, in their employ, and entirely dependent upon them for the means of supporting their families, and it might so happen that these men would be required to vote in a particular manner, or be thrown out of employment. He would ask, did not these things actually occur in the distressed year of 1834?

Then let the people continue the use of the ballot-boxes in the exercise of the sovereign power of appointing their agents. On the other hand, let us, as agents, act openly, manfully, and in such a manner as to enable our principals to judge of our actions, and to protect ourselves from the suspicion of having done what they would not approve. Is there a man here who desires to conceal his vote, or avoid the strictest scrutiny? He hoped not. In the South and West nearly all vote *viva voce*. Those who were appointed agents by a *viva voce* vote, certainly would not claim to be more independent than their constituents, and desire to conceal their vote. He would further remark, if there were those here or elsewhere who had a horror of secret societies, and secret influences, and who claimed much at the hands of the people from their desire that every thing should be submitted to the scrutiny of open day, he certainly should expect their hearty support and approval of this resolution.

He doubted not that the people would be well pleased, to borrow the figure of my friend from Kentucky, [Mr. HARDIN,] if all the acts of their agents here were written in sunshine in the firmanent of heaven, that they might read, and approve or disapprove them. But it is said this resolution will not bind the next Congress, and will have no effect upon the present. If so, it can do no harm. It is before us, and we must vote for or against it, whether it avails us much or little, and whether it embraces officers we have to elect this session or not. Perhaps it would, like many resolutions, result in little but the assertion of principles. He cared not what might be hereafter construed to be within its provisions, or the extent it might be considered binding. He should vote for the resolution, because he believed it right in principle, and ought to receive the sanction of this House, and be the rule of action in "choosing" all the officers of the House, as it has been for twenty years in choosing three fourths of them. The principle contended for was not only right in itself, but was sustained by a strong indication of the intention of the makers of the constitution, and has the sanction of the people. He should therefore vote for it.

Mr. CLAYTON, of Georgia, said that when the mind

was bent upon a purpose, and seemed to defy all the combined energies of reason and argument, a simple reference to some striking events has sometimes arrested its waywardness and brought it to a reflection favorable to the influence of truth. He hoped the House would indulge him in an experiment of the kind. The question before us may result, as did the case which is so well illustrated by a certain celebrated epitaph, known doubtless to all, and which, when it is mentioned will fully explain the object in view, as well as the story of the unfortunate victim of which it was a memorial; it is this:

"I was well, wanted to be better,
Took physic, and here I am."

Now, sir, this House has, for forty-five years, in the election of its officers, used no other mode of choice than that by ballot. The House has never, in a single case, met with a solitary difficulty. Its business has been well done; it has been attended with the utmost harmony and peace; the people have never complained. Why then attempt to better that which has proved to be as good as could be desired? Why give up a certainty for an uncertainty? Why risk a reality for an experiment, to obtain precisely that which you already possess?

Mr. Speaker, (said Mr. C.,) the gentleman last up but one, [Mr. PEARCE, of Rhode Island,] arrived at the same conclusion to which I am driving, but certainly by a different route. If the gentleman had dropped his pledges and stuck more to his prophecies, he would have been, if not more loyal, at least more correct; and, (Mr. C. said,) although he had no pledge to make, he too would make a prophecy, and he called upon the House to recollect it; he hoped every member present who would be here the next session of Congress would well remember it; he was extremely anxious, as it was the first he had ever made, and this was the last session in which he should ever sppear, to have it borne in mind: as soon as this resolution has answered one single, separate, and exclusive purpose, it will be repealed, and there will be men, now voting for it with a great deal of seeming love of bold and open courage, who will, at the next session, vote to dispense with it! Now, mark this prediction!

What is this object? Does any man pretend that he does not see it? It is true, it is not avowed, but who wants an avowal when circumstances, and the plainest dictates of common sense, lead him as directly to the purpose as if it stood confessed? One session of the present Congress, and a very long one, is over; there are but five weeks of the present to come; all the officers of the House have already been chosen by ballot; there is but one more to elect; he is the public printer; and upon him the whole hopes of a party depend. The signs of the times show there is danger, which it is thought nothing but a certain great influence can avert. And, above all, this resolution can only control the present Congress, it being utterly ridiculous to suppose it can bind the next. Now, who wants to be told what all this means? For what purpose, affecting any great general interest, is this change required? Does any one believe that the existence of this mighty principle of democracy, as it is called, for the space of five weeks, is going to produce the wonderful consequences predicted of it? And who believes it will last any longer? Mr. C. said he could not speak in tropes and figures as did the gentleman from New York, [Mr. VANDERPOEL,] when he "shook the hoary locks of antiquity" at the House, but he could give them a little poetry, which would answer fully as well:

"Princes and Kings may flourish or may fade,
A breath can make them as a breath has made."

Depend upon it, this resolution is the mere creature of a breath, and when it has wrought its mischief, a breath will destroy it.

Sir, the same gentleman made a quotation from scripture, and it immediately reminded him of another which he would give to the House; first, however, premising that it should not be done irreverently. Such was the profound respect he felt for its sacred precepts, he believed it was improper to use them, unless seriously to illustrate some useful principle, or enforce some great truth. Under this view, he should employ the passage promised. This House has but one master, and I do not mention the fact in a popularity-seeking cant, for such I cordially despise, and that master is the people. If the object sought by that resolution does not affect them, is wholly disregarded by them, and is altogether temporary, then, in looking for a motive for such proceeding, it must be to serve some other master, who has the means to reward such an act of obedience, perhaps contrary to the interest of our first master. If so, we are told "we cannot serve two masters; we cannot serve God and mammon both; wherever our treasure is, there also will be our hearts." And, sir, we have had woful experience of this. The appointment of some forty or fifty members of Congress, within the last six years, to high and lucrative offices, ought to remind gentlemen that the facilities for this contraband commerce against the rights of the people ought not to be increased. These favorites have arrived safe in port, and are at rest; and, though laden with a rich cargo, they are nevertheless a good deal weather-beaten.

Sir, (said Mr. C.,) there is a view of this question which seems to me so plain that it is almost impossible to misunderstand it. Let me ask the House to consider what is the natural organization of any and every deliberative body? What are its objects? For what purpose constructed? The answer to these questions will lead to the clear distinction between its preparation to act, which concerns itself, and the acts themselves, which are to operate upon others. By way of illustration, suppose for a moment that this body had assembled for the first time to carry into effect the powers conferred upon it by the constitution, and which are intended to promote the great interests of the confederated States. In order to become an efficient organ for the purpose, some system is necessary; and the first impulse, like that which occurs every day in public meetings, would be to nominate and call to the chair a president, or, more properly speaking, a chairman, and one of our own body as clerk. So far, no one can possibly imagine that this first organic step involved any of the great principles of suffrage, about which the people could feel the slightest concern, and yet here are two of the most necessary officers created preparatory to the execution of the work in hand. It is found, however, in the progress of the business, that the magnitude of our duties, and the great diversity of interests to be attended to, require that a number of additional officers should be appointed. They, too, are chosen as the first; and now the body are ready to execute the powers confided to them in the constitution. Here is a formation brought about for a given object, in a manner which must be admitted could not, in the remotest degree, affect the objects which had brought the assembly together, and therefore would not excite either the hopes or fears of those upon which the acts of this assembly were designed to operate. If, then, this organization is made free from any violation of the people's rights, how can any future one, framed precisely upon the same footing, produce a contrary result? And if this mode of appointing officers, by mere nomination or resolution, assails no vital principle of suffrage, how can that by ballot do it? But, sir, in the further operations of this body, it turns out that, to make it a complete instrument, well ordered

in all its parts, to effect the powers contained in the constitution, it is necessary that it should have a speaker, a clerk, (not of its own body,) a sergeant-at-arms, a doorkeeper, a deputy doorkeeper, pages, librarian, assistant clerks, messengers, &c. These perfect the organ for the work laid out to be done. Now, it would seem, if it be true the people are deeply concerned to know how their Representatives vote for these officers, that concern will apply just as much to one officer as another, to the lowest as well as the highest. Imagine, then, this great *viva voce* principle—this principle that is to do so much for the liberties of the people, that is so dear to democracy, and all that is to be employed in the appointment of these officers, where would you stop? Would you say, after the speaker and clerk were elected, it would be unnecessary to carry it any farther? And why? Would not the people wish to know how your doorkeeper acted, as well as your clerk? How your water-bearers supplied you, as well as how your clerk read your bills and mended your pens? If you stopped the great *viva voce* principle, this great conservative of liberty, at the clerk, then you make it to depend not so much upon its intrinsic virtue, as upon the character, degree, and amount of service to be performed by the officer on which it is to operate! Can any thing be more unreasonable? The people, then, would not feel any interest in your arrangements to commence, with effect, the objects of your mission; but (Mr. C. said) he would tell the House when their concern would begin: so soon as you commenced to carry into effect the powers of the constitution; so soon as you begin to send out the measures intended to act upon their great interests; then they would want to know, and ought to know, how you voted, that they might settle with you for good or for evil. Whenever your rule of action related to the control of their rights, it would become a matter of jealous and watchful solicitude; but when your rule of action referred to the mere provision of a suitable instrumentality by which you were to work, it could not be a consideration of the least possible moment.

Mr. C. said he would make an assertion which he called upon members to contradict if it be untrue—for the fact was within their knowledge, and therefore susceptible of contradiction: Out of the twenty-four States in the Union, at least eighteen, and indeed he believed more, used the ballot in their elections. What did this argue? If, at the fountain head, the source of all power, the people, (and God knows they are often enough told of their omnipotence,) you find the ballot is the favorite mode of designating their choice, what right have we to expect that they desire of us what they do not practise themselves?

Sir, admitting for a moment that the *viva voce* principle is correct—and, as for himself, Mr. C. said it was perfectly immaterial what mode was adopted, for he would as lief the rule should be, that each member should march up to the polls with an open ticket wafered upon his forehead as any other way—but, if a correct rule is about to be inverted, and used for an improper object, that is reason sufficient to oppose it. If the Bible itself were perverted to a wicked purpose, he should reject it, at least so far as that purpose was concerned. While the gentleman from New York was complimenting the independence and decided character of western members, it would have been well for him, because equally true, if he had come round by the South, and paid the same tribute to southern openness. When, with but a few dishonorable exceptions, have southern members ever shrunk from any question?

The arguments used by both of the gentlemen from New York are extremely fallacious, and the examination of a few of them, by way of example, will eminently support this assertion. For instance, the first gentleman stated, by way of showing that the election of printer was not the exclusive object of the resolution, that you, Mr. Speaker, had not a lease of your life; that you were not immortal, and that in five weeks we might have to elect a Speaker. In passing, if this is the only expectation of getting your seat from you, it is to be hoped it will not be shortly realized. Now, sir, the right way to test the strength of an argument is to make whatever is to be proved by it depend alone on that argument. Suppose a resolution had been introduced containing a preamble, that, whereas the Speaker has not a lease of his life, is not immortal, and may die before the end of the session: Therefore, *Resolved*, That his successor shall be chosen *viva voce:* does any man believe such a resolution would, for a single moment, be entertained by a body claiming to be enlightened, or acting under the slightest sense of self-respect? What, then, becomes of the argument? It lends no support to the proposition it was intended to aid; and, if it does not, then its defence falls to the ground.

The second gentleman advanced this argument, to sustain the idea that the *viva voce* vote was necessary to the acquisition of responsible officers, and instanced the case of the delinquent sergeant-at-arms, who ran off a few years ago with the pay of the members of Congress. Now, can it be possible that it is not perceived that an officer would be just as apt to run away with money who was elected by *viva voce* as by ballot? Is there any thing in the mode that makes men honest? Surely, this will not be seriously contended for. Sir, these are *ad captandum* arguments; they are assumptions somewhat plausible; and, being addressed to the fears, it is expected they will be taken without examination, as the mind naturally shrinks from investigation, and that the conclusion to which they point will be seized at once.

The first gentleman also stated, towards the conclusion of his remarks, that the *viva voce* mode of election would save time; but before he concluded the argument it became very evident he lost confidence in it himself, for he lost the animation which equally sustains unwavering conviction, and said his chief reliance was not so much upon the expediency of the change as the great principle of liberty and democracy involved in the question.

Sir, this argument of time was an unfortunate one; for, if there is one thing more than another, in which our constituents are fully satisfied, it is that the more time we take up in doing nothing, the better they fare. Indeed, it is the common law of this House to adjourn whenever the motion is made, sometimes from Thursday, and very frequently from Friday to Monday, upon the express understanding that when we are not in session the people have a respite from our filching legislation.

Mr. C. said he would promise the House one thing, that he should not follow the example of those who had gone before him in the length of his speech, unless, indeed, the warmth of his feelings had already betrayed him into such an infliction. He would therefore conclude by saying that, as he believed the resolution would change a wholesome practice, from which not a solitary evil had resulted; that it was designed for a particular party purpose; and would, when that purpose was fully served, be repealed, it should have his most decided opposition.

Mr. JONES, of Georgia, had risen to offer a few remarks, and was prepared to proceed, but, hearing from several gentlemen around him, the call "adjourn," for the purpose of gratifying those gentlemen, and ascertaining whether it was the wish of the House he should proceed at this time, he would move to adjourn.

[Mr. J. accordingly moved that the House adjourn; but the yeas and nays being demanded on the question, Mr. J. said that, believing unnecessary time would be

consumed in taking the yeas and nays, he would withdraw his motion for adjournment, and proceed with his remarks.]

Mr. JONES then resumed as follows: It is not my intention, Mr. Speaker, to go at large into the inquiry as to which is the most independent mode of voting—by ballot or "*viva voce.*" It is my purpose to call the attention of the House to the constitutional provision upon this subject, and to show that this House cannot properly take any action upon the resolution, and that it is, to say the least of it, nugatory and useless.

The original resolution proposes that the officers of the House shall be elected "*viva voce.*"

The last clause of the 2d section of the 1st article of the constitution provides, "The House of Representatives shall choose their Speaker and other officers."

Does this give power to the House of Representatives of this Congress to choose the Speaker and other officers of the House of Representatives of the next Congress? I trust not. This has never been, and I presume never will be, contended. No member will say that we have the power at this session to elect the Speaker for the next Congress: and if we have not the right to choose him we certainly have not the right to elect any other officer; and the next Congress might and would regard the exercise of such a power as an improper interference with their constitutional powers.

Having, then, no right to choose their officers, can we prescribe the mode of election which would be obligatory on the next Congress? Let us test this by an illustration: suppose the resolution has passed, and the members have assembled, for the purpose of forming and organizing a House. The Clerk, as is customary, takes the chair, and some gentleman rises and makes a motion, "that the members present do proceed to elect their Speaker by ballot." Would any man be silly enough to rise and oppose that motion, upon the ground that this House had directed the election should be by *viva voce?* Or, is there any man here so foolish as to believe it would be a good and valid objection? I cannot believe there is. Not only so, but the rules of this House would not be binding upon the next Congress till they had been formally adopted. The same reasoning must apply with equal force to the other officers, for they are all provided for in the same clause of the constitution.

This resolution, then, cannot have any authoritative obligation upon the next Congress, and there is no necessity for it in this. All the officers of this Congress have already been chosen by us, and are now discharging their duties, unless the printer is included among the officers. He was chosen by the last Congress, and to this day we have acquiesced in that choice. It has been declared that the sole object of this resolution was to provide for his election. I will not make the charge, and I consider the denial unimportant. If he is an officer of this House, the election by the last Congress was improper, and we ought not to follow such an erroneous example. If he is not an officer, this resolution does not extend to him.

But it has been urged that it is proper to pass this resolution; if it is not obligatory, it will show to the next Congress our opinions upon this important subject. Sir, it is not proper and would be indelicate to pass a resolution merely advisory, to a body equal to and certainly independent of this House. We have no right to prescribe or advise how or whom they shall elect as their presiding officer. If any gentleman at the close of this session were to offer a resolution expressing the thanks of this House for the able manner in which you have discharged the duties of that distinguished office, alike honorable to yourself and useful to the country, and were to add to it a recommendation to the next Congress to elect you as their presiding officer, would any gentleman in this House approve the measure? Would it not be considered by every one improper and indelicate? And, sir, the next Congress is as competent to determine the one as the other, and it is improper to interfere with either. It has been urged by some gentlemen that this resolution provides for the election of all the officers, and although they have been elected, yet some may die. To this it will be sufficient to reply, "sufficient unto the day is the evil thereof." When that contingency may arise we will provide for it, and proceed to fill any vacancy which may happen.

Mr. Speaker, before I close I will notice the remarks of those gentlemen who have charged my colleague, [Mr. GILMER,] who addressed the House on Saturday, as mistaken in supposing the election by ballot was more independent than that of *viva voce*, and that the latter was calculated to destroy the independence of this House. I will not attempt to determine between those gentlemen—"*tantas componere lites.*" But if they will recall their historical recollections, they will find his opinion supported by the opinion and experience of able men. A great object in the reformation with the liberals and the opposition to the ministry for years has been to obtain the voting by ballot. The ministerial party, the tories, have successfully opposed them, and have retained in the House of Commons the mode of electing *viva voce.* A distinguished historian of that country has remarked, that the King has gained more in influence than he has lost in prerogative. The ministers know well the importance of this influence, and the managers of the House of Commons how to retain and use it beneficially. They know that, however well the recruits may be drilled out of the House, they may not follow the motions of the fugleman in the House, unless they are well haltered, bridled, and bitted. And they have desired no better bridles and bits than the voting *viva voce.* They are men of great experience and great knowledge of mankind, and their opinion and practice doubtless had great weight with my colleague, and has great weight with me in inducing the belief that the electing *viva voce* is less independent, and better calculated to subserve the purpose of corrupting the Representatives of the people. But it has been said, we are too young, and it cannot be believed the members are so corrupt as to be thus influenced. Sir, I will neither charge corruption in the members of this House or of the executive Government, nor will I charge this mode of voting as desirable for a more complete party organization. But the resolution itself carries upon its face a strong insinuation of dishonesty in the members of this House, in voting contrary to the wishes of their constituents, and concealing from them for whom that vote is given. We have, then, corruption on one side and dishonesty on the other, and it is difficult to choose between them. I am disposed to take neither as the reason for my vote on this occasion; but I cannot avoid the conclusion that, when the Representative is so dishonest as to vote against the wishes of his constituents, and to conceal that vote, he is clearly in the market, and corrupt enough to subserve the purpose of any set of men who are base enough to purchase and willing to pay the price of his subserviency. Believing, then, sir, that this resolution can answer no useful purpose, that it is improper and indelicate to pass one which has no authoritative obligation, and must be admitted to be only advisory, I cannot consent to give my vote for its passage.

Mr. HAWES said, it must be evident to every member that this discussion was interrupting all the regular business of the House, and the elaborate debate that had already taken place had elicited the opinion of both parties, he thought, sufficiently: he therefore moved the previous question.

The House refused to sustain the call: Ayes 76, noes 99.

The House then adjourned.

TUESDAY, JANUARY 27.

GOLD MEDAL, &c., TO COLONEL CROGHAN.

Mr. SPEIGHT, from the Committee on Military Affairs, reported a joint resolution, which had been referred to that committee, with an amendment, authorizing the President to present a gold medal to Colonel Croghan, and swords to several officers under his command, for their gallant conduct in the defence of Fort Stephenson, during the late war.

Mr. S. said, as he believed no opposition would be offered to the resolution, he would move its third reading.

Mr. PARKER, of New Jersey, said he had no doubt as to the gallantry of these officers; not the least; but if they conferred these distinctions in the present case, why not in others, it would be asked, which occurred during the last war? It was his impression, also, that some acknowledgment had been already made to these officers.

Mr. MERCER said such was not the case. Mr. M. briefly explained the nature and importance of the services rendered by these officers.

The joint resolution, as amended, was read a third time and passed.

Mr. WATMOUGH said, if the House would pardon him, he wished to say a few words on a subject connected with the resolution just passed. Some years ago he had offered a resolution, proposing to collect the bones of the brave men who fell on our northwestern frontier, but it was not listened to. As Congress had now been induced to do justice towards a portion of the gallant men engaged in that perilous and important service, he hoped that, when he or any other member of that House should submit a proposition to do that which he had above intimated, it would at least be listened to.

INDIAN RESERVATIONS.

Mr. LOVE, from the Committee on Indian Affairs, to which was referred the resolution offered by Mr. MCCARTY on the 23d instant, reported the following amendment, viz:

Strike out, after the word "correspondence," the words "of all Indian agents, sub-agents, and other persons connected with the Indian department," and insert, after the word "office," the words "of all Indian agents, sub-agents, and other persons;" and insert, after the word "land," the words "east of the Mississippi river," so as to make the resolution read as follows, viz:

Resolved, That the President of the United States be requested to transmit to this House copies of all letters and correspondence now in the executive or War Departments, or in the office of the Commissioner of the General Land Office, of all Indian agents, sub-agents, and other persons connected with, or relating to, the survey, location, sale, and transfer of all Indian reserves of lands east of the Mississippi river, since the year 1825, up to this time; and also all the orders and communications from the Executive of the United States through the War Department or General Land Office, or otherwise, in reference to said surveys, locations, sales, and transfer of Indian reserves; together with maps and plats of said surveys, and of the tracts approved and confirmed by the President under said transfers and sales, and what remains unapproved that have been reported and submitted for his approval, together with the evidence of title.

Mr. LOVE stated that the only alteration in the resolution proposed by the committee was to limit the investigation to the eastern side of the Mississippi. The committee were anxious to avoid any unnecessary expense in the investigation, but it was thought invidious to confine the investigation to any particular State or Territory. In the treaties which gave rise to Indian reservations, there were, he said, two stipulations in respect to the lands reserved. The first was, that the President should approve their transfer and sale before the title became vested in the hands of the purchaser; and the second, that the Indian agents should see that the Indians got a fair consideration for their lands, and that no frauds should be committed upon them, nor upon the Government. The object was to protect the Indians; and, to effect this, it was provided that the agents should certify to the President that the lands were sold for a proper consideration, and in a proper manner. As the Government acted upon the certificates, it was utterly impossible that any branch of the executive departments could have any knowledge of the frauds which were committed. The charge was that the agents had committed frauds by combining with speculators in the purchase of reservations, and cheating the Indians in the purchase, and cheating the Government by certifying that the lands were sold for a fair consideration. Another fraud which was alleged to have been practised was in forging transfers from Indian orphans to purchasers, and certifying them to the Government for approval.

Many of the reservations belonged to orphans, and it was alleged that the agents had certified transfers from them which they knew nothing about. The investigation did not in any way affect the executive departments, but it would let the House and the country know whether the allegations of fraud were true, and by whom they had been practised, and what contracts had been made with sufficient consideration, and what without. The committee only asked to have the correspondence furnished. From it the House would select such parts for publication as would furnish the information which was required, and reject the others. It was due to the Indians, due to the nation, and due to the Executive, that the whole matter should be investigated, in order that, if any frauds had been committed, they might be exposed, and, in future, prevented. The consideration of expense, which was urged as an objection to the investigation, ought not to enter into a question of this character, however great the expense might be; but he was satisfied that the time occupied in procuring the information would not be so long nor the cost so great as had been stated.

Mr. CLAY said his principal objection to this resolution was not the expense attending the investigation it proposed. It was the imposition of heavy, and, as he thought, useless labor on officers of the Departments, who are already burdened with other and important duties, which formed one great objection to the resolution. It threw upon the land office the labor of copying this whole correspondence, though it was the daily complaint in that office that it was deficient in labor for the performance of its ordinary duties; and, by way of example, he remarked that, in issuing patents for land only, it was one hundred thousand in arrears, according to the commissioner's report. This call for a mass of documents, not one tenth part of which would ever be of any use to the country or the House, was, he thought, wholly unnecessary. It would also involve the expenditure of a large amount of money in printing. Why should the House, he said, call for information which will be attended with so much labor and expense, and the printing of a volume of seven or eight hundred pages, unless it was certain that the information would be of use? He did

not pretend to put in competition with expense the security of the Government from such frauds as had been alleged to be practised; but he asked why these frauds were not specified, if they were believed to exist?

We propose to institute a general inquiry into the conduct of all the agents, as if they had been guilty of some offence, and we bring them to trial without notice and without any specification of the charges made against them. He had no objection to an investigation into any particular and specified fraud which might be alleged, but he was unwilling to enter upon a general investigation which conveyed an imputation upon the character of one whose standing was as good as that of any member on this floor. In saying this, he was not aware that any fraud had been alleged, nor even rumored, in regard to any persons in the State which he represented.

Mr. PLUMMER said the calculation which had been made, as to the expense of this call, when the subject was under consideration before, did not apply to the resolution in its present form. The resolution was now in a proper shape, and he thought it was right that the documents should be made public. The time and expense of furnishing the information now proposed to be called for would, apart from the maps, be very inconsiderable.

The object of obtaining this information from the Indian bureau was to give the people of the country and the House an opportunity to lay their finger on any particular fraud which had been committed. It was not its object to make any accusation against any person, nor to bring any person before the House for trial. Now, sir, (said Mr. P.,) I know a great deal about Indian matters in my own State, and I do not know that any frauds were ever imputed to any of the agents there. He did not understand that the gentleman who offered the resolution in the committee made any charge against any particular State or county. But it was, in another point of view, that the information should be obtained. In his State, as it was well known, there were no means of ascertaining how long the reservations had been sold, nor whether they were liable to taxation. In that view, this information would be important to all the States where reservations had been sold. He should vote for the amendment proposed by the committee, and also for the adoption of the resolution.

Mr. LOVE would say a single word in reply to the gentleman from Alabama, [Mr. CLAY.] This resolution did not propose an investigation, and, of course, not an *ex parte* investigation. Unless the agents were convicted of fraud by their own letters, they could not be convicted by the information called for; and if their letters should show that they were guilty, there could be no disposition on the part of any one to screen them. The gentleman says that he will go with the committee in the investigation of any particular fraud. But suppose a particular fraud was inquired into and detected, the House would then have to go over the same ground again in making an inquiry as to some other fraud. But when the House had the whole matter before them, they could put their finger upon each individual case of fraud. He had no great faith, any how, in these Indian agents. They were men who amassed fortunes by oppressing the people whom they were sent to protect. He knew, however, that there were honorable exceptions among them. Many of the Indian reservations had been transferred without the knowledge of the Government of the State in which they lie; and it was not known, therefore, whether they were taxable or not. It was important to the States, therefore, to know to whom the lands belonged.

Mr. McKINLEY would, he said, be extremely glad to have this matter fairly investigated; and though he did not approve of the resolution in its present shape, yet he thought that some modification might be adopted which would remove his objections to it.

Mr. EWING, of Indiana, said he should have lamentable forebodings of the purity and faithfulness of public officers, if he could apprehend the adoption of the resolution merely because there are no specified charges preferred, or because the printing would cost a little money. He would not hope to remove such objections; but he would again state that, heretofore, they had never been regarded by this House as sufficient to keep from the people such information, touching other matters, as the resolution calls for in relation to our Indian concerns. The gentleman from Alabama, [Mr. McKINLEY,] who has just taken his seat, has stated that he heard of "gross frauds." [Mr. McKINLEY here said rumor had informed him.] Sir, said Mr. EWING, the rumors adverted to have spread, and facts only can place the subject-matter in its true light. But he did not rise to argue the resolution exclusively: he rose also to correct a gross misrepresentation of what he had uttered on a former occasion, when the resolution was before the House, in certain reported remarks of his colleague, [Mr. LANE,] which had appeared in the "Globe" newspaper; and of guilt in relation to the remarks, he would here exonerate the reporter, as he felt himself authorized, upon the authority of a member now in his seat, to attribute the false report of a false charge against him, (which had never been uttered on this floor,) to his honorable colleague himself, he having written out his own remarks for that paper. Sir, said Mr. E., I was anxious to avoid collision in regard to this matter, and called the attention of my colleague to have it corrected on Saturday last, informing him at the same time that I had located no frauds in Indiana; "if frauds had been perpetrated," that I had not in any way involved the people of Indiana. A correction was promised, and on Monday it did not appear. This morning, a letter of my colleague's is inserted in that paper, saying he did not understand the charge to have been located in Indiana, and thus he has removed one proper motive for dragging in the honest citizens of that State, to make a gratuitous eulogium, well merited, but not required, and if ever required, he (Mr. E.) should emphatically echo and extend it. He should now be wanting to himself, and those he represented, if he allowed the injurious charge, originally printed for his colleague, to pass without an indignant exposure. It was no doubt intended for home consumption, but it was still-born. There was not an honorable member in the House, who had heard his own and his colleague's remarks on the occasion mentioned, to whom he would not cheerfully refer, to stamp the reported remarks in the Globe, embracing the charge, as an attempted imposition and base falsehood. Nor were the remarks published in the letter of his colleague, of this morning, with inverted commas, the exact remarks made upon the occasion as they struck his ear. His colleague had accounted for his unnecessary remarks upon the worth and intelligence of the people of Indiana, by referring to the course of the gentleman from Mississippi; and in this correction he stood fortified by the recollection of other members.

Now, Mr. Speaker, that I may not be again misrepresented in the Globe, or elsewhere, I distinctly state that the people of Indiana were in no way alluded to or embraced by me in my former remarks upon this resolution. The partial approval of some sales of reserves, and rejection of others, and the error, and speculation, and imposition, will all be found, if they exist, to involve only those in authority, whose conduct the people and the people's representatives should become fully possessed of. The attempt to lug in the acknowledged worth, and intelligence, and uprightness, of the people

of Indiana in this matter, was of itself calculated to give wrong impressions; and he hoped he had now said enough to correct the false impressions. After many additional remarks in support of the resolution, Mr. E. hoped it would be adopted as now reported by the Committee on Indian Affairs, and that he would not again be called upon, on this floor, to defend his constituents or himself from the effects of false implications, or false charges, in relation to this subject.

Mr. LANE assured the House that respect for them and for himself would restrain him from attempting to bandy words with his colleague, [Mr. EWING.] He should confine himself to a mere statement of fact, of truth as it existed, and this without fear of contradiction: and he would add, contradiction should be a peril. On a former day he had made some remarks in reply to those which fell from his colleague and from other members of the House, and, at the conclusion of the debate, after the speech of the gentleman from Mississippi, [Mr. PLUMMER,] he had risen for the purpose of making an apology; wherein he stated to the House that, as a different direction had now been given to the resolution by its reference to a committee, which, he was well assured, would investigate the subject to which it referred, by calling for such papers as might go to locate the charge of fraud, he should vote in favor of it. And then he had added, what he would now state substantially, if not in the precise words he had used. He had said that he would add one word in relation to the people of Indiana, inasmuch as the resolution had originated with one of the Representatives from that State, and as two of his colleagues had expressed their belief of the existence of fraud in connexion with Indian reservations, it might be supposed that some of these frauds had been supposed to exist within the State of Indiana; he had deemed it his duty to say that a purer and more honest population existed in no State of the Union; they were high-minded and honorable: that he had been personally acquainted with most of the Indian agents within that State for twenty years, and that he believed them to be utterly incapable of fraud on the Government of Indiana, the general Government, or any individual whatever.

In the report of his remarks, which had appeared in one of the public prints, (the Globe,) he perceived that he had been represented as saying that his colleagues had located the alleged frauds in the State of Indiana. The moment he observed the mistake, he endeavored to correct it, by giving the substance of what he had actually said. The correction, however, was too late for insertion on Saturday, and had not appeared till this morning. But it seemed that his great offence had been the saying that his colleague's constituents were honest and high-minded; and his colleague on his left [Mr. EWING] seemed to think that he had an exclusive right to eulogize his own constituents. Mr. L. said he had heretofore supposed that he had some interest in the State of Indiana, and that the State had some claims upon him. Nor could he believe that he had violated the rules of propriety, or said any thing that called for a bitter reply. He would assure his colleagues on that floor, that he should not complain if they were disposed to compliment his constituents. He knew that they merited all of that kind that they might receive. It would, he doubted not, be well received by them, and gentlemen should have his thanks for their courtesy. What he had stated was true, and not "false;" and he would only say, that whoever contradicted it was himself the individual who asserted a falsehood.

He knew that a man might easily be mistaken as to the particular words used by another; he certainly had not intended to charge either of his colleagues with locating the supposed frauds in Indiana, but he had been apprehensive it might be supposed so, as the resolution came from that State. He could not conceive that he had said any thing to give just offence.

He could assure his colleague, [Mr. EWING,] that that gentleman's remarks were uncalled for. He had intended to correct the report of his remarks in time; and he could assure his colleague that he would not call in question his talents, integrity, or attention to business. He had not assailed his motives, or cast the slightest imputation on his character, and was ready to join him and lend his aid to sustain him in all that was calculated to promote the interest and prosperity of his State, or of the Union. When he should be capable of saying what he felt would detract from his colleague's standing, he should feel himself unworthy of a seat on this floor; when he wished to travel out of his way to impute falsehood to any individual, he should do it elsewhere; he should do it as a gentleman, and not where he was protected by the walls and the drapery of that hall. He had no ill feeling toward any one: he censured not; he reproached not any. He was ready to go heart and hand with his colleague either in praising or in serving the people of Indiana.

Mr. WATMOUGH and Mr. POLK here simultaneously called for the orders of the day.

The question being put, the motion was sustained: Yeas 102, nays 77.

The House thereupon passed to the orders of the day, and took up several bills, which were read a third time and passed.

LAND CLAIMS IN LOUISIANA AND ARKANSAS.

The bill for the final adjustment of land claims in Louisiana and Arkansas was returned from the Senate with amendments.

And the question being, Shall the House concur therein?

Mr. GARLAND wished it postponed, that there might be time to examine the amendments, and moved accordingly.

Mr. SEVIER moved that it should be recommitted to the Committee on Public Lands.

"Arkansas" having been stricken out, the motion of Mr. GARLAND was finally agreed to.

DISTRICT COURT IN TENNESSEE.

The bill regulating the time of holding the United States district court in East and West Tennessee being on its final passage,

Mr. PEYTON said that, as the duties of the several judges were greatly increased by this bill, he thought it only fair that their salaries should be made commensurate to this increase; for which purpose he moved the bill should be recommitted to the Committee on the Judiciary, with instructions to insert such a provision.

Mr. FOSTER assenting, the bill was recommitted.

MEDAL TO GENERAL MORGAN.

The joint resolution introduced by Mr. E. EVERETT, from the Committee on the Library, directing a gold medal to be struck at the mint of the United States, from the original die, at the expense of Morgan Neville, in honor of the battle of the Cowpens, was read a third time and passed.

GENERAL APPROPRIATION BILL.

The House having resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of Government for the year 1835, and the question being on the amendment offered by Mr. VANCE, proposing to repeal the second section of the law of 1834 (which gives to certain subordinate officers of the customs the same emoluments as they received

prior to the reduction of duties in 1832) to limit their compensation, and oblige them to report annually the amount of compensation by fees, &c., received by them, together with an amendment thereto offered by Mr. Fillmore,

Mr. VANCE said it would be perceived by the provisions of this amendment, that its object was to get an expression of this House against that portion of the second section of the act of the last session, making appropriations for the civil and diplomatic expenses of the Government for the year 1834, which permits the custom-house officers to receive a compensation equal to what they would have received under the importations of the year 1832; provided the act of the 14th of July of that year had not gone into effect, and to give permanency to the limitations and restrictions contained in the residue of that section.

If gentlemen will take the trouble to examine this subject, (said Mr. V.,) they will find that the importations of 1832, upon which an attempt is made to fix the basis of pay to our custom-house officers, were greater than in any one year since the existence of our Government, with the single exception of 1816.

Now, sir, (said Mr. V.,) what are the effects of continuing this provision in your appropriation bill? Does not every member of this House at once see that it is a license to our officers to disregard all economy in the collection of our revenue? Does it not, in effect, say to them, distribute the funds arising from fees and commissions amongst your dependants and hangers on; for we have provided under the second section for you to come into the treasury, without limitation, for the whole amount of your compensation, if necessary? Sir, (said Mr. V.,) I know I will be told by gentlemen that this amendment will compel your officers to discharge duties without compensation, if it be adopted. Now, sir, to this assertion I have the same response that was given at the last session of Congress, when I had the honor to submit a similar proposition. Dismiss your host of supernumerary officers, and bring back the contingent expenses of the custom-house to what they were prior to 1828, and you will have sufficient means, under the laws as they now are, to pay all the officers necessary to the wants of the Government. Sir, (said Mr. V.,) I have heard much about the labor and toil of this class of our fellow-citizens; I heard a grave Senator speak of their toils during the last session, when this amendment, or one nearly similar, was before that body for their sanction or rejection, in which he said, speaking of a certain gentleman, that he was so pressed by labor that he could not take his meals at home; and, to my knowledge, the very person of whom the Senator spoke was then in the Senate chamber, and had been here for weeks, trying to rid himself of the provisions of the amendment adopted by this House at their last session; and, sir, I believe the gentleman alluded to is now in this city, and has been the principal part of this session.

I cannot myself say how much labor these gentlemen perform; but one thing I do know, but touch their $5,000 or $8,000 per annum, and they soon present you a formidable front in Washington. They may be hard pressed at home, but they appear to always have sufficient leisure to visit this place when salaries are in danger of being reduced. Sir, (said Mr. V.,) I will not at present further discuss this matter. At the last session it was fully discussed, and, after a full hearing, it received the sanction of this House by a decided vote. The Senate did, however, dissent from the decision of this House, and it was returned to this body with this objectionable section that had been stricken out restored to the bill, and in this matter of disagreement between the two Houses, and from the advanced stage of the session, this body acquiesced in the Senate's amendment. But I well recollect that, both in the Senate and here, we were promised that this matter should be brought before Congress early in their present session.

All appeared to agree that abuses had grown up in the collection of our customs; that the salaries of officers were very disproportionate to their services. But here we are; the session two thirds passed away, and no bill yet presented, nor will there be any bill until you stop the principal officers of your custom-houses from going into the treasury for a large portion of their compensation, under a law that is based upon false pretences, and contrary to the soundest principles of economy and impartial justice. Sir, (said Mr. V.,) I have no disposition to do injustice to any portion of the officers of this Government. I have no disposition to even enter into this debate. I am about to retire from public life, and would gladly have left this whole matter to other and abler hands. I had, from a reluctance on my part to enter into a political warfare on the salary of officers, waited until the last moment to see if some other member would not step forward and call the attention of the House to a subject of so much importance; but finding no one willing to undertake the task, I have felt it to be my duty to present it again to the consideration of the House.

Mr. V. said that, since he had offered his amendment a few days ago, he had been looking into the expense of collecting the revenue at different periods in the Government, from 1811 up to 1834, and that his examination of the subject had strengthened his previous convictions of the necessity of arresting the progressive expenditure in that branch of our financial system.

Sir, said Mr. V., if the House will give me their attention and hear me patiently, through a few statistical tables that I have prepared on this subject, if they do not come to a like conclusion, I will submit with great pleasure to any decision they may think proper to make of the subject.

In the year 1811, I find there was collected at the custom-house, on imports, $13,313,222 73, and that the cost of collection was a fraction under 3½ per cent. on the amount.

In the year 1816, I find there was collected at the custom-house, on imports, $36,306,674 88, and that the cost of collection amounted to less than 2½ per cent. on the sum collected.

In the year 1826, I find there was collected at the custom-house, on imports, $23,341,331 77, and that the cost of collection was a fraction under 4 per cent. on the amount collected.

In the year 1834, I find that there was collected at the custom-house on imports, $24,353,004 25, and that the cost of collection is but a fraction under 6 per cent. on the gross amount collected, and but a fraction under 10 per cent. on the nett revenue paid into the treasury.

It is here proper to say that, with the exception of 1834, the per centage on collection has been calculated on the gross amount; as I have not been able to find from any tables amongst our documents, with the exception of that of the report of the Secretary of the Treasury of December 15th, 1834, on the compensation and number of custom-house officers, a separation of the gross from the nett revenue, and for that year I have given the cost of collection on each sum.

Now, sir, permit me to present this progressive expenditure in this branch of our financial system in a different form, and then let me ask gentlemen to examine and judge for themselves, at what time, and under what administration, there has been the most extravagance and least restraint in this branch of the public service.

I find in the following four successive years the cost of collections at the custom-house on imports were:

In the year	1825, - -	$889,302 95
"	1826, - -	886,999 44
"	1827, - -	889,818 27
"	1828, - -	932,093 63

Making a progressive increase on the collections of the revenue on imports, in four years, of $52,790 70, equal to a fraction over 5½ per cent. for the term of four years, or of a fraction over one and one fourth per cent. per annum.

So much, Mr. Speaker, for the increase of expenditure under that head. And now, sir, I will give you the increase of expenditure on the same objects in the next four years, and we will then see how the amounts will compare, and whether we can find any satisfactory explanation for the necessity of the expenditure in these four years, being nearly five times as great as in the four preceding years for precisely the same objects, with this exception, that, in the first four years, there was collected at the custom-house on imports $86,357,900 50; and in the following four years there was collected $97,294,136 05. Now for the proof of this assertion.

In the four successive years, commencing with 1829, the cost of collection on imports, at the custom-house, was as follows:

In 1829,	- - - -	$1,013,667 51
1830,	- - - -	1,055,115 37
1831,	- - - -	1,216,009 57
1832,	- - - -	1,315,226 52

Making a progressive increase of expenditure, in four years, on the collections at the custom-house, of 301,558 dollars and 94 cents, equal to a fraction under 24 per cent. for the term of four years, or little less than six per cent. per annum.

Now, sir, I have the key to this extraordinary increase of expenditure; and if the House will bear with me, and lend me their attention a few moments longer, I will solve the mystery.

This 2d section, that gentleman are so anxious to retain, does away all necessity in your custom-house of economy and rigid accountability. Nay, it goes further; it gives a license to your principal officers to expend, under the sanction of the Secretary of the Treasury, the whole amount arising from fees and commissions, in paying off subordinate officers and contingent expenses, the result of which has been to increase the number of officers and the amount of contingencies.

Now, sir, permit me to give you a table of statistics, showing the rapid increase of expenditure in the collector's office in the city of New York, taken from an official paper in the Senate's documents, No. 435, 6th vol. for 1834:

Years.	Clerk hire.	Stationary.	Office rent and fuel.	Other official expenses.
1829	$16,644 38	$2,302 64	$184 69	$201 72
1830	30,101 86	3,935 83	230 79	1,509 82
1831	47,724 83	5,141 68	191 73	920 70
1832	52,092 28	6,482 90	346 13	1,151 59
1833	49,909 27	8,625 84	214 69	835 63

Here, Mr. Speaker, you will perceive that, in four years, in the collector's office in the city of New York, the clerk hire went up from $16,644 38 to $52,092 28, and that the stationary in the same office increased from $2,302 64 to $6,482 90, and in the next year to $8,625 84, an increase in one year to an amount nearly equal to the whole expenses for the same objects in 1829; and such, sir, will continue to be the increase, unless you strike from your laws this objectionable section, and bring back the necessity of economy amongst your officers of customs.

So much, Mr. Speaker, for clerk hire, stationary, and contingencies. I will now give you a sample of additional allowances under this section, at four of our principal cities, in the year 1833:

In the city of Boston, seven weighers received extra compensation under this section of -	$9,608 55
And had previously received - -	16,548 07
Total, -	$26,156 62
In the city of New York, fourteen weighers received extra compensation -	$15,307 90
And had previously received - -	29,618 49
Total, -	$44,926 39
In the city of Philadelphia, one weigher received extra compensation amounting to - - - - -	$2,022 64
And had previously received - -	3,925 59
Total, -	$5,948 25
In the city of Baltimore, one weigher received extra compensation amounting to	$2,206 14
And had previously received - -	3,476 13
Total, -	$5,682 27

Here, sir, you have twenty-three subordinate officers of your custom-house receiving, for duties that can be performed by any honest, industrious mechanic, who would be willing to labor for two dollars per day, the enormous sum of $82,713 51, making an average annual salary of within a small fraction of $3,600 each. This, sir, includes only one inconsiderable class of your custom-house officers, who, under the restrictions I propose by the amendment, will receive out of your treasury $46,000 instead of $82,713 51, an allowance, in my opinion, liberal to a fault; for, my word for it, if ever this matter receives that attention from this House that its importance demands, these gentlemen weighers will not be allowed their $2,000 per annum.

Sir, let me ask gentlemen to examine and compare our present with our former expenses. Under the administration of Mr. Jefferson, the cost of collection in the city of New York was $61,347; in 1832, it was $408,791. Why, sir, you now pay to your weighers alone, in the city of New York, $44,926 39, a sum nearly equal to the whole expense of collection in that city in the year 1802.

And now, sir, let me ask gentlemen if it is not time to arrest this increased and increasing expense, which is accumulating in a ratio that will in a few years turn the balance sheet against the Government, and then I suppose we will be called upon to resort to direct taxes to pay our custom-house officers.

Mr. CAMBRELENG said that he concurred with the gentleman from Ohio in the object he had in view, and he thought that that gentleman, in parting from the House, could not have conferred upon it a better legacy than the resolution he had offered, and the speech by which it was sustained. Yet he must be permitted to express a belief that the gentleman had made a very material mistake in some of the positions he had taken. In stating the rate per cent. which it cost the Government to collect the revenue, he had commenced in the year

1811, when all the imports of the country were charged with a very high duty, and had brought down his statement to the year 1834, when all the duties were low, and when many of our imports were free of duty of any kind. For this difference, the gentleman seemed to have made no allowance. He would have done no more than justice if he had stated the enormous increase of importations which had taken place in some of those years, and they were at the least double the amount of some of the years preceding. Yet Mr. C. was ready to admit that the expenses of the customs were great, had increased, and ought to be diminished. But the true foundation of the greater part of this increase was to be found in measures of which that gentleman and his friends had been the warm and persevering advocates. He alluded to the multiplication of guards and restrictions which had been introduced with a view to secure the payment of the revenue, and which demanded a host of officers whose services had never been required before. As the gentleman was so desirous of cutting down this branch of the public expenditure, he trusted to have his aid in an effort to repeal at least one half of the laws relating to revenue, which had been passed since 1816, and thus to give simplicity to the business of collections. The multitude of appraisers, the square-yard duties, and running-yard duties, and various minimums, with all their appurtenances, now combined so to complicate the task of getting goods through the custom-house, that it required fifty clerks a whole month to accomplish what might formerly have been done in a few days with less than half the number. Mr. C. insisted that the present mode of paying custom-house officers was altogether wrong. The whole revenue received ought to go into the treasury, and those who collected it ought to be paid by appropriation. Mr. C. again explicitly stated that he did not object to the inquiry proposed, but only that it should be introduced into an appropriation bill, where it certainly did not belong, and where it originally had had no place. He had understood the chairman of the Committee of Commerce to say, that it was contemplated by that committee to introduce spontaneously a bill intended substantially to effect the same object.

Mr. SUTHERLAND (chairman of the Committee of Commerce) said that he considered it as not very material whether this proviso should be adopted or not. He had said that he thought it best, at present, to go through the bill as reported, and the Committee of Commerce would bring up the question, some time this session, at least so far as the names of the officers were concerned. The bill before the House was an appropriation bill. It contained no provision, of any sort, in relation to custom-house officers, but the gentleman from Ohio was endeavoring to put that subject into the bill—a clause of limitation, although it contained no appropriation to pay the salaries to be limited. He understood that it was contemplated, in the other House, to introduce a provision of limitation. If such were not the case, he stood pledged to offer to the Committee of Commerce some measure on that subject. They were prepared to say that the compensation of some of the officers of the customs should be reduced. It might be well enough, however, to remember the vast capital which was vested in the city of New York; the millions upon millions which were constantly passing through the custom-house there. If Congress should refuse to the revenue officers the necessary fees and stationary for the discharge of their duties, the revenue could not be collected. It was a common saying that figures could not lie; but, for his part, he believed that, as generally used, they were the greatest liars of the age. The gentleman had paraded a great many of them in his speech, and, to be sure, they looked very well on one side of the question. But if the gentleman, instead of coming from over the mountains, had had his residence in a State upon the seaboard, and had examined with candor into the actual facts of the case, the gentleman himself would admit that these officers performed a laborious duty, and were entitled to a proper compensation. So far as the city of Philadelphia was concerned, Mr. S. could say, with perfect truth, that not one of the revenue officers belonging to that port had any claims on him. He was influenced wholly and exclusively by a sense of justice. He wished to give them their due, and nothing more. In the mean while, he wished to keep the bill clear from all foreign matter. Let the subject go to the Senate. The Committee of Commerce in that body consisted of gentlemen quite as learned, and quite as familiar with all that related to the revenue, as the honorable gentleman from Ohio. That committee had examined these subjects last year, and had introduced the very section which it was now the object of the gentleman to expunge. If any thing of this kind must come into the appropriation bill, that committee were competent to introduce it there; but he felt authorized to say that they would not do this, if they could in time bring in a general bill on this subject. The proper course would be to send the bill to the Senate, and not to interrupt or delay its passage by pressing amendments of this kind.

Mr. FILLMORE said that he concurred generally in the views which had been expressed by the gentleman from Ohio. Since that gentleman's amendment had been introduced, Mr. F. had carefully investigated the laws under which our revenue officers were paid, and it was his purpose to propose a further amendment, which he hoped the gentleman from Ohio would consent to adopt as a modification of his own. He had no desire to reduce the compensation of those officers too low. He was anxious that their salary should be fixed at such an amount as was right, and at no more, and should be so graduated that it should be no longer the fact that those who did the least duty should receive the highest pay. The gentleman from Ohio would find, upon examination, that the amendment he had proposed would not remedy the evil of which he complained. The compensation which these officers received was made up in two or three different modes. The collectors received a per centage upon the duties collected, and certain fees of office. The same was true of many other classes of these officers; but as to the weighers, measurers, and gaugers, there was no law which made their pay in proportion to the revenue received; on the contrary, they were paid specifically for duties performed. The inspectors received a per diem. The duties of their station were arduous; and, previous to 1816, they had been allowed two dollars per day, together with certain contingencies, but in that year their compensation had been increased fifty per cent., and instead of two dollars they now receive three dollars per day. They were employed, as it appeared, every day in the year, nor were they idle on those days generally devoted to public worship. This salary was perhaps not too much, but the allowance made to weighers, gaugers, measurers, and markers, though in proportion to the work done, was certainly greater than it should be. The report from the Secretary of the Treasury, instead of being such as was called for by the House, to guide its legislation on the subject, was a mere transcript from the second part of the Comedy of Errors, the Blue Book. Let any man compare the returns there made with the provision made by law, and he would at once perceive that they were not correct. They stated nothing of any allowances for fines or contingencies. The collector, for example, was set down for $4,400, while his share of fines, &c., was probably quite equal to the amount of his salary; so that, in fact, his place, instead of being worth but $4,400, was worth probably more than 7 or $8,000

Mr. F. would call the attention of the House to one or two items in this record. Joseph Lowry, of Boston, a weigher and gauger, received $3,714, a sum which greatly exceeded what many, if not most, of the Governors of the different States were allowed. A certain George Gwyer, a weigher, received $6,097. This seemed a large allowance, yet it was $3,000 less than what another officer of the same rank received in one year. As it was probably apprehended, by the authority making up the Blue Book, that this amount might possibly appear somewhat enormous, a note of explanation was subjoined at the bottom of the page, stating that this included the wages of laborers and other expenses. Now, Mr. F. would like to know what these laborers received, and what was meant by these "other expenses." He was at a loss to conceive what they could be. This, however, was all [the explanation given for a salary which exceeded that of any one of the heads of Departments, which surpassed the allowance to any Governor in the Union but one, and which greatly exceeded the pay of any judge in the highest court in the nation. The man who received it was a weigher, and received his appointment from the collector. Cases of this sort Mr. F. must consider as abuses, and such abuses as called for an effectual remedy; but that remedy would not be furnished by the amendment of the gentleman from Ohio; that amendment would not reach the case. The law of 1829 was daily evaded, and the same man abused its provisions so as to draw from the treasury two or three different salaries.

Mr. F. said he would now offer an amendment, which he hoped the gentleman from Ohio would accept.

[Mr. FILLMORE then moved an amendment, the substance of which was, that no officer should receive, either in the shape of salary or fees, or by a union of employments, more than $—— each; the sum being left blank.]

It would be observed that the operation of this amendment would not be to fix, but only to limit, the amount of salary to be received. He was willing to regulate the compensation of these officers by a liberal scale; but it ought certainly to be restrained within some fixed and determinate sum. One word as to this matter of limiting salaries. The gentleman from Pennsylvania, at the head of the Committee of Commerce, [Mr. SUTHERLAND,] had said that he concurred in the propriety of such a measure, but that he did not consider this as the proper time or place to do it; and the gentleman seemed to intimate that there was a prospect of reporting a general bill regulating the entire system. Mr. F. would greatly prefer this; but did any man suppose, was there a man in the House who could believe, that a bill could be reported in time to pass this session? He suspected not. Indeed, the gentleman had been careful not to give any express assurance of such a thing; but, lest gentlemen should be inclined to doubt, he had added that, if no such bill should be reported in this House, the Senate would amend the present bill, so as to secure the object in view. But that gentleman must surely be too well acquainted with parliamentary practice, and parliamentary law, to believe that this House was to look to any other body to do that for it which it could and should do for itself. The gentleman knew that it was improper, and out of order, even to allude to what was passing in the other House of Congress. Were they to neglect their duty, because the Senate would do theirs? Did not the gentleman know that our bill would go to the other House near the close of the session, when there was no time left for amendments and alterations? If the compensation of these officers was too great, the present bill ought never to leave this House until the evil was corrected by provision of law. He hoped the gentleman from Ohio would accept the amendment as a modification of his own.

Mr. VANCE not replying,

Mr. POLK rose and inquired whether he would or would not accept the amendment?

Mr. VANCE said that he must decline accepting the amendment. It left so many salaries to be fixed by the House, that he feared it would involve them in endless difficulties. All he wanted was a general provision that should embrace the whole ground. He doubted, too, the policy of abolishing, as the amendment proposed to do, all allowance of a share in the forfeitures. This, he apprehended, would work injuriously, especially on the frontier.

Mr. POLK said that, after the repeated assurances from the chairman of the Committee of Commerce, that this subject was under consideration in that committee, and this by order of the House, after the reception of a detailed report from the Secretary of the Treasury, giving to that committee all necessary information on the subject, he could not conceive why this amendment was thus pressed. This was an appropriation bill, and here was a proposition which went to remodel the entire system of compensating the officers of the customs. What necessary connexion, what connexion of any kind, existed between them? If it should be said that a provision on the subject had heretofore been appended to a similar bill, his reply was, that it had been done from necessity, and necessity only; but that necessity did not now exist. The Committee of Ways and Means had not deemed it to be their duty, in reporting this bill, to go beyond the appropriations necessary to carry on the civil and diplomatic duties of the Government; and, should the amendment be farther pressed, he trusted that the House would act upon it, and reject it, and let the bill be passed without further delay.

He would add a word or two on the subject of abuses. Gentlemen must be aware that the sums received by these weighers and others, of whom so much had been said, were not paid them under any arbitrary determination of the Treasury Department. The Secretary of the Treasury had no discretion in the matter; the compensation was fixed by law. It was the law of the land which allowed the per centage on duties collected. At ports of smaller consequence, where a custom-house must be kept up to prevent smuggling, but where little was collected, the law allowed three per cent. on the amount; but at the large seaports, where the bulk of the revenue was received, it allowed but one sixth of one per cent. As to the number of clerks, the Secretary of the Treasury was empowered to designate their number and compensation; but this was not to go beyond a certain limit.

But what had all they had heard to do with those who administer the Government? They were but executive officers, and it was their duty to carry the law into effect. If the law was wrong, change the law; but an appropriation bill was no place to do it. The principle of the law was just and fair: at ports where the duties were few, the salaries were small; where the duties were multiplied and onerous, the salaries were large. Gentlemen talked about "leeches" who sucked the blood of the nation. Such language was easily adopted. Nothing was easier than to bring general and sweeping charges; but if gentlemen believed what they said, why not call for a committee of investigation? Let the House have a report; let them have facts to go upon. But, besides, the amendment of the gentleman from Ohio would not effect what he supposed it would. The gentleman talked of one thing, but did another. The modification which had been proposed would indeed fix the salaries; but this the gentleman would not accept. And if he had, was that House, without the report of any committee to guide them, and at the heel of an appropriation bill, to set about to arrange all these

salaries? The amendment was utterly out of place. The compensation of these officers would remain just as it had been before the adoption of the temporary arrangement of the bill of 1834. That enactment had been temporary in its nature; it never had been intended to be any thing more; it was now *functus officio*. The clause which the gentleman from Ohio was so anxious to get rid of was a literal transcript of the act of 1833. But if any gentleman doubted whether that clause would or would not survive, the whole matter might be arranged by the appropriate committee. The organ of that committee (the chairman of the Committee of Commerce) had told the House that this would be done. But, in the meanwhile, unless the clause in the act of 1834 were re-enacted, it was likely to happen that the collectors would get little or nothing, as had been the case in Baltimore, where the collector, instead of receiving any thing whatever for his year's labor and responsibility, had actually found himself out of pocket. If, however, the House was determined to amend the bill, be it so; only let the question be settled one way or the other, and let not the passage of so important a bill be delayed any longer.

Mr. PHILLIPS said that, as the House seemed to be somewhat embarrassed, he would, though with the diffidence which became him as a new member, venture to submit a question of order. He doubted whether the amendment could be considered as strictly in order. This being an appropriation bill, an amendment, to be in order, should propose either to insert some appropriation which the bill did not contain, to strike out some clause of the bill, or to alter the form or amount of some of the appropriations it contained. But the present amendment did neither of these. The proviso which it proposed to insert had, in the last year's bill, accompanied and qualified an appropriation for the salaries of custom-house officers; but the present bill contained no provision whatever for those salaries, and therefore the insertion of the proviso appeared to him to be out of order. It went neither to appropriate money, nor to lessen or qualify any appropriation in the bill. He therefore, with great deference, inquired whether it was in order?

The CHAIR suggested that any objection to receiving the amendment ought to have been urged when it was presented; the House had now received and debated it; and it was too late to raise the question of order.

Mr. VANCE now accepted Mr. Fillmore's first amendment.

Mr. WILLIAMS called for the reading of the amendment as thus modified; and it was read accordingly.

Mr. WARD positively denied the correctness of Mr. Vance's statement as to the per centage paid in the customs collected. He challenged the gentleman to put his finger upon the items to prove it. He averred there, in his place, that the per centage had never, in any instance, exceeded three and a half per cent., while that which was paid for collecting the amount of the sales of public lands varied from eight to twenty-five per cent.

Mr. VANCE replied, that either the Secretary of the Treasury, or the gentleman just up, was greatly in error. According to the official returns of the Department, the per centage, on the gross amount received, was over six per cent., and on the nett amount it was as much as ten per cent. There were the returns; the gentleman might examine for himself. Mr. V. had assumed the Secretary's own figures as the basis of his calculation. If the gentleman could show that these were wrong, he was ready to correct the calculation; none was more ready to correct an error than himself.

He called the notice of the House to the document which showed the extra allowances made to officers of the customs, and that section of the law of 1834 which he sought to abolish. There were seven weighers in the port of Boston who received extra allowance amounting to $9,608. These officers received, without this extra, $16,584; amounting to about $2,000 apiece; yet they got $9,608 more, or about $1,500 each, as extra. So in New York fourteen weighers received, together, $15,307 extra. Without this allowance their compensation amounted to $29,618. This was over $2,000 apiece; yet they got extra allowance to the amount of $15,307 among them: making the pay of these fourteen weighers equal to the entire amount of customs received at the port of New York in the day of Mr. Jefferson.

But he had not yet done with this document. The gentleman from New York [Mr. Fillmore] had considered it as very extravagant that a weigher, in the city of New York, should get pay to the amount of something over $3,000. Why, here was the evidence that one weigher, in the port of Philadelphia, received an extra allowance of $2,022, besides the $3,900 he got without it; making his total compensation over $5,900! There were instances where weighers, under this section, had received $8,000 dollars in one year. But it did not stop here. There were other facts of the like kind; but he forbore to weary the House with details. He had brought this state of things to their notice under a sense of public duty; it was for the House to take such order respecting it as to them seemed right. The gentleman from New York on his left, [Mr. Cambreleng,] had undertaken to prove that this was all owing to the legislation of Congress.

Here Mr. V. went into a number of statistical statements, to show the great and sudden increase in the expenses of the custom-house from 1829 to 1831; the clerk hire having quadrupled within that time, and the expenses of stationary alone having grown from $2,000 to $5,000, while the actual receipts had increased only from 22 to 24 millions. At that rate, how long would it be before the clerks in the custom-houses got the whole revenue of the country? The gentleman from Tennessee had alleged that the whole of these allowances were made according to law, and had argued that there were and could be no abuses, no leeches, because the Secretary of the Treasury was allowed by law to regulate the allowances according to his own discretion. Why, that was the very thing Mr. V. complained of. Under this legalized discretion the Secretary had allowed $16,000 to grow, in two years, to $47,000; and other items in the same or in a greater proportion.

Mr. WARD said that the gentleman from Ohio had been good enough to hand to him the data on which his calculation rested. He had hastily glanced his eye over it, but he could not see that the expense of collecting the revenue had amounted in any one year to the amount the gentleman had stated. His statement did not seem to refer to the aggregate expense of collecting the entire revenue. But, be this as it might, the whole matter of these salaries was before the Committee of Commerce. The House had a very able and vigilant officer [Mr. Sutherland] at the head of that committee, but he had stated to the House that the committee were not yet prepared to report. Would the House delay this bill, which, until it was disposed of, blocked up all other business, when there remained but 22 days more of the session? The revenue of this country was collected for a less sum than it cost any other Government in the world. The collection of the land revenue cost us from eight to twenty-five per cent., yet not a complaint was heard from that quarter; but if a subordinate officer of the customs happened to get a good living by his labor, there was an outcry. Let gentlemen look at the receivers in the land offices. They received a salary of $500,

and were allowed one per cent. on moneys received. Mr. W. had no objection to this; the duties were well done; he had heard of no defalcations. As to the weighers and gaugers receiving four and five thousand dollars a year, it was wholly deceptive; no such salaries were received; out of the moneys set down as salaries these officers had to pay great sums to subordinates and laborers. Thirty per cent. had first to be deducted, and then all expenses; and, when the residue was divided, the average to each officer was in no case over $1,333. Would any gentleman pretend that this was too much? Let the committee scrutinize as much as they please, and the result would be that, instead of diminishing, they would rather be inclined to augment the allowances.

Mr. WILLIAMS presented his thanks to the gentleman from Ohio for introducing the amendment. Some such provision would have passed the House at the last session, but the subject was postponed under the expectation that a general bill would be reported. This expectation, however, had failed: and he saw as little prospect of having such a bill this session. He had listened closely to the chairman of the Committee of Commerce, [Mr. SUTHERLAND,] and he could not understand his language as warranting the House to look for any efficient measure from that quarter. Mr. W. hoped the amendment would prevail. It might be very true that the allowances, which all admitted to be enormous, were in conformity with the letter of the law; but was that a reason that the law needed no amendment? Surely, there was as strong a reason for correcting a bad law as for enacting a good one. Whether all this extravagance was indeed sanctioned by law, he would express no opinion; nor was that question material: the remedy could be provided, and ought to be. Was it to be borne that a mere mechanical agent in the collection of money should receive more for his services than any governor or judge in the whole country? A gentleman near him said that, even with this enormous salary, these men did not attend to their business: he had no doubt this was true; for he had never in his lifetime known extravagant salaries make men industrious; but the reverse. As to relying on the Senate to do our duty, it was what he could not approve. Nor was the objection against interposing such a provision in an appropriation bill much stronger. What difference did it make, provided the evil could be arrested, whether it were done by a clause in this bill, or by a separate bill for that object alone? A temporary form did not prevent the law from being in fact permanent, because it was easily re-enacted from year to year. It was the duty of the House to correct such a crying evil when and where it could. He had no certainty that any other bill would be reported: if it were, this provision would do no harm; if it were not, this was all-important. He concluded by demanding the yeas and nays; which were ordered by the House.

Mr. GILLET commenced by saying that it was with reluctance that he had arisen to participate in the present debate. The notice, however, which had been taken of the Committee of Commerce, rendered it proper he should say one word on this subject. He would endeavor to state to the House the real question under consideration, in as few words as possible. Under the acts of Congress, a certain per centage on moneys collected was paid to the collectors of the customs, as well as certain fees of office; out of which certain officers under them were paid the compensation allowed them by law, and the overplus, if any, was paid into the treasury, after deducting the salary of the collector. On reducing the duties on imports in 1832, the amount of these commissions and fees became materially diminished, though the labors of these officers continued very much the same. The consequence was, that the fund out of which these officers were paid became so much lessened that it did not afford them a reasonable compensation. This led to the adoption of the third section of the act of 1833, which is in these words:

"SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to pay to the collectors, naval officers, surveyors, gaugers, weighers, and measurers, of the several ports of the United States, out of any money in the treasury not otherwise appropriated, such sums as will give to the said officers, respectively, the same compensation in the year one thousand eight hundred and thirty-three, according to the importations of that year, as they would have been entitled to receive if the act of the 14th July, 1832, had not gone into effect."

Under this law he understood that these officers received the same compensation they did prior to 1832, whether they then received it in the shape of fees or in a salary. On passing the law of 1833 it was expected that the whole subject of paying custom-house officers would be acted upon at the last session; but the destruction of the Treasury building, and consequent loss of materials collected by the Secretary to enable him to digest and recommend a plan for that purpose, prevented those expectations from being then realized. And, in order to prevent these officers from not being sufficiently compensated, a section was introduced at the last session into the appropriation bill, making the necessary provision for paying them, and it is in the precise words of the law of 1833. It has, however, a proviso, limiting the amount that these officers shall be allowed to receive. Under this law of 1834, it was understood that the officers had been paid their respective compensations. On passing the law of 1834, this House considered that the law of 1833 had expired; at this time the law of 1834 must be equally dead. It could not have the effect to give these officers salaries after 1834, unless 1834 could be made to read 1835, &c. It followed that there was no provision at this time to pay these men, if the fund alluded to should fail to be sufficient. In this state of the case the civil appropriation bill comes before us, and the gentleman from Ohio [Mr. VANCE] proposes to add to the appropriation bill a section repealing that portion of the act of 1834 which provides for making compensation to the officers referred to, and continuing a certain other portion of it. This, to his mind, was like firing a park of artillery at a dead lion. It was hardly worthy of grave legislators to be spending days on a question of repealing a dead law. If the bill contained any provision to pay custom-house officers, there would be some apology for this effort; but it did not provide one cent for them; and the amendment is entirely irrelevant and out of place.

But the gentleman talks much of enormous sums taken from the treasury to pay certain of these officers. He forgets that much of what many of them receive, and about which he speaks, is fees paid by individuals, and but very little is ever paid them from the treasury; and he also forgets that many of them disburse much of what they receive in paying their necessary assistants. It was highly probable that some of these officers were too well, and others too poorly paid. This is not the proper place to examine and act upon that subject. He had profited by experience. He well recollected last session, his venerable friend from Massachusetts [Mr. ADAMS] assumed the ground that appropriation bills ought not to be loaded with extraneous matters. Their office was merely to appropriate money, under existing laws, to compensate public agents, and to execute public works. This was the true rule, and one which he desired to act upon.

But (said Mr. G.) we are told that if we do not add this clause now to this bill, we shall not be able to act on the

subject this session. He did not deem it important that it should be done; for unless we pass a law to pay these officers, there will be no law to pay them from the treasury, and the fund referred to cannot give them what they received under the gentleman's amendment of last year. But to his mind it would be less out of place to add the gentleman's present amendment to many of the other bills which were certain to come up this session. He, (Mr. G.,) however, hoped to see this whole subject brought before this House at this session, in a proper form, from the appropriate committee. It was a subject of vast importance, and required much deliberation and care. It was first necessary to establish a proper basis, and then the details would require great consideration and attention. He hoped, if he had any agency in preparing the bill, to aid in infusing into it so much of liberality and economy as would make it acceptable to all sides of this House. He would diminish the number of these officers to the actual necessities and wants of the Government, and was not for paying them, or any other officers in the Government, a salary larger than was necessary to ensure the services of competent, faithful, and efficient men. More than this would be justly termed extravagance.

On the other hand, that rate of compensation which was so low as not to ensure the services of such persons as he had described, would be ill-timed economy, would result in injury to the public interests. When you pay too low to command the services of men of capacity and integrity, you are sure of being badly served. Your agent must live, and if you do not give him such compensation as will allow him comfortably to do so, he is sure to cheat you in the time he serves you or in some other way; for a living he must and will have. If he cannot live honestly, he will do so dishonestly. You may obtain capacity to do business at a low price; but integrity is quite as important as talent. The public service requires both. He would, however, avoid, if possible, having any officer whose compensation should depend upon contingencies. It should not be composed of per centages, or allowances, or any thing of the kind. He preferred paying a distinct annual salary; then the law would inform us how much each public agent received for his services. This would prevent the dishonest from paying or receiving too much, and it would shield the upright from suspicion.

Then, on the last day of the year, the compensation of all officers for the ensuing year could be accurately calculated. All would be paid distinctly under statutes, and Congress would be responsible to the people for the amount paid. Then the Executive would be free even from the suspicion of having, by his own act, increased the expenses of Government. He would be, in the disbursement of the public moneys, the executive of the laws of Congress—an agent without discretionary powers. It would relieve him of much of the embarrassment now necessarily attendant upon his office. The heads of the Departments, and their accounting officers, would also be relieved from an unpleasant and vexatious part of their duty. These suspicions against the integrity of officers would be much less likely to be raised; now, he believed most of these suspicions grew out of the fact that many officers were not paid a certain and definite sum as a salary.

He had urged these considerations upon the attention of the gentleman from Pennsylvania [Mr. WATMOUGH] when considering the navy pay bill, and he was happy to learn that they had been duly appreciated, and were likely to be ingrafted on it by common consent. Once adopt a definite salary as the mode of pay, you do away with all those difficulties that are said to be so common between those who have accounts and accounting officers. Should these principles be adopted in the custom-house pay bill, he thought that branch of the public service would be relieved from unjust suspicion. He did not expect, in the details of any bill that could be reported, that we could all agree in opinion, in every instance, as to the number and compensation of officers. These things were mere matters of opinion; but, in the principles of compensation which he had suggested, he hoped the gentleman from Ohio would acquiesce. He even hoped that they would be unanimously assented to by the House. After this frank expression of his views and expectations, he hoped the gentleman from Ohio would not further press this subject upon the consideration of the House, but allow this bill to take the ordinary course through it, untrammelled by the consideration of subjects totally disconnected with those presented to our consideration in the bill.

Mr. HARPER, of Pennsylvania, said that, as several gentlemen had referred to statements made by him in a previous stage of this debate, he thought it incumbent on him to explain. The gentleman from New York [Mr. GILLET] was mistaken in supposing that the weighers, gaugers, &c., performed the same duty after the reduction of the duties as they had done before: it was not so: because a large class of articles of import being wholly freed from duty, it became no longer necessary to ascertain their weight or quantity. These officers, therefore, received, under the law of of 1834, the same pay as they had previously received, though they did not by any means perform the same service. The service ceased, but the salary was continued. As to the notion that they threw their receipts into common stock, and then made an equal division, it was wholly a mistake; so far at least as Philadelphia was concerned, no such practice prevailed there. It might be the custom in New York; but in a majority certainly of our seaports, it was otherwise.

[Mr. WARD said he personally knew that such was the practice in New York.]

Mr. HARPER resumed, and made some further explanations in reference to the re-weighing of certain goods. As to the idea of leaving this matter to the Senate, he would state that, from conversation with a member of that body, he learned that the Senate relied upon the House to propose the necessary plan. He did not doubt that, with the present enormous number of clerks to be paid by the collectors, those officers might, in some cases, receive a very inadequate compensation: but what was the proper remedy? Increase their salaries? No: but reduce the number of clerks. If, then, there should not be sufficient to perform the duty required by the public service, let it be shown, and let the Department come to the House for more. But as to the notion of allowing all these officers to put their hands into the treasury and take out the money, till their living came up to what it had been before their duties were diminished, he was opposed to it entirely. He regretted that, after waiting for two years, the House had not yet got any thing in the shape of a bill from the Committee of Commerce. If it were true that the provision in the second section of the law of 1834 did expire with that year, it would be necessary to do something to equalize the salaries, or to pay some of the officers more than they would be entitled to receive.

It being now past 4 o'clock, Mr. McKINLEY, with a view to put an end to the debate, moved the previous question; but the House refused to second it.

Whereupon, the House adjourned.

WEDNESDAY, JANUARY 28.

COMMERCIAL AGENTS ABROAD.

Mr. FOSTER, from the Committee on the Judiciary, reported a bill to prescribe the punishment of consuls,

vice consuls, and commercial agents; which was read twice.

Mr. ROBERTSON remarked that there was one feature of the bill which he considered of great interest and importance, and in which he did not concur with the committee. He would, therefore, move so to amend the bill, as that the fine and imprisonment provided by it should be left to the discretion of a jury, instead of the court.

Mr. FOSTER remarked that the gentleman had moved a similar amendment in the committee. Several members were disposed to favor it; but a majority of the committee were of opinion that this should not be made an exception to the general rule of proceeding in cases of a similar character.

Mr. ROBERTSON remarked that the State from which he came held the trial by jury as a sacred principle, and he was unwilling in this case to yield that principle, and vest the decision in one man. It proposed to give to the court a discretion which he thought dangerous and improper, and which should be left to a jury of the country.

The amendment was disagreed to, and the bill ordered to be engrossed.

After the reception and disposition of various memorials and resolutions,

Mr. POLK called for the orders of the day.

Mr. POPE reminded the House that, about ten days since, he had given notice that he would, on this day, move the House to resolve itself into Committee of the Whole on the state of the Union, to consider the bill reported by him in relation to the Louisville and Portland canal. As the appropriation bill was still under discussion, he would postpone his motion until that bill was disposed of.

The amendments of the Senate to the bill of the House for the adjustment of land claims in Louisiana, were concurred in.

The bill for the benefit of the city of Alexandria came up upon the motion to reconsider the vote whereby it was rejected.

On motion of Mr. MERCER, it was postponed until to-morrow.

GENERAL APPROPRIATION BILL.

The House resumed the consideration of the appropriation bill for the civil list, with Mr. VANCE's amendment thereto.

Mr. WISE, of Virginia, said he was astonished that members of that House should believe that subordinate officers of the customs, such as a weigher or gauger, actually enjoyed an income of $6,000 per annum. They were entirely deceived. No such state of things existed. Mr. W. here went into a number of statistical statements, which could not be caught by the reporter with sufficient accuracy to be depended upon. The result, however, was, that under the act of 1833, the weigher received emoluments to the amount of $1,093, in addition to $1,333, which they had formerly received. The present amendment went to take off the $1,093, and to leave these officers with an income of but $1,333. Would any man contend that this was sufficient for a respectable man obliged to live and maintain a family in the city of New York? He was sure no gentleman would pretend such a thing. Mr. W. then read to the House an estimate of the expenses of such an officer, allowing him to have a wife and two children, and which brought up the amount of their maintenance to $1,495. Mr. W. then declared his willingness to abide by the provisions of the act of 1834, which limited the salaries of such persons to $2,000.

The gentleman from Pennsylvania [Mr. HARPER] had proposed that the number of subordinate officers should be reduced; but in New York this could not be done. The city was divided into fourteen districts, with a weigher in each: less would not do. A number of vessels arrived at one time, having dutiable and weighable articles on board, and they must not be detained; and though the number of such articles had been much lessened by the reduction of the tariff, yet almost every ship had some, and the number of weighers was regulated by the number of ships, and not by the quantity of goods to be weighed. If the amendment should pass, these men would not get their expenses. The gentleman from Ohio [Mr. VANCE] had stated the per centage paid for the collection of the revenue as being over five per cent. on the gross amount of duties collected. This might be true, when all the ports were taken into the calculation; but the cost of collection in the city of New York, where so large a proportion of the whole amount was received, did not exceed three and a quarter per cent. Many of the custom-houses were actually an expense to the Government; it cost much to keep them up, and they collected but little revenue. Yet, from their local situation, it was indispensable to keep them up to prevent smuggling. Here was the place to retrench, if any retrenchment must take place; but let not the chief reduction be made where the chief amount of labor was performed. As to the increase of the expense of stationary, that was to be accounted for from the new arrangements adopted to receive the duties. The books to be kept were three times as numerous as formerly; and hence the great multiplication of clerks.

[Mr. VANCE here referred to duties to show that the increase commenced before the new arrangements, and therefore could not be attributed to them.]

Mr. W. protested against the principle of setting up the offices of the customs to the lowest bid. If that should be made the policy of the Government, he would show them men, decent in appearance, who would be willing to fill the offices not only for a low salary, but for no salary at all. The facilities in the power of weighers and gaugers to defraud the Government were numerous and great. They could easily manage to make up the amount of sugar deducted from a hogshead, or supply the room of wine withdrawn from a cask, and nobody be the wiser; it might be done so that detection would be impossible. He mentioned this only to show the necessity and the policy of employing men of respectable character and standing; and if the Government would have such men, it must consent to pay them well. It was the only way to command honesty and respectability in their servants. If the amendment should prevail, the officers must cheat or starve. And many men who would scorn the idea of defrauding their fellow-citizens in their private transactions were wholly insensible to the guilt of evading the revenue laws. Custom-house oaths had become proverbial for the laxity with which they were observed.

Mr. JARVIS proposed to amend the amendment of Mr. VANCE, by adding a proviso that the present number of custom-house officers should not be increased without the permission of Congress. As the law now stood, the Secretary of the Treasury and the collectors had the power of transferring the number of officers employed in the different custom-houses, so as to employ the most officers where there was the greatest need of them; the wording of the amendment would prevent this.

[Mr. VANCE signified his willingness to accept the amendment.]

Mr. JARVIS said he would add a word in reply to the statements and arguments of the gentleman from Virginia, [Mr. WISE.] According to him, the inspectors of the revenue received three dollars per day, or $1,090 per annum. Now, if the weighers could not live on a

less salary than $2,400, how could the inspectors get along upon $1,090? They were as respectable men as the weighers; they had wives as well as they, and as many children to feed; and as to their responsibility, and their opportunities of fraud, they were not only as great, but greater than those of the weighers. It was as easy for an inspector to certify that goods entered for drawback had been on board a ship, when, in fact, they never were there, as it was for a weigher or gauger to mark a false weight on a hogshead of sugar or a pipe of wine. Mr. J. regretted the necessity of introducing such a provision as this in an appropriation bill; but, unless this was done, he saw but little chance of any thing like reform in our collection system. Gentlemen made no objections to encumbering the bill by adding provisions which went to spend money; why should they be so very fastidious when the object was to save it?

Mr. HARPER explained the manner of conducting the process of weighing in the port of Philadelphia. The weigher sent his agents and laborers from wharf to wharf, and whenever they found goods which needed weighing they weighed them. There was no need of having a weigher to each ship, as the gentleman from Virginia seemed to suppose. And as to a division of salary, no such thing was ever heard of among the custom-house officers in that port. Mr. H. also explained the course of things which took place when goods were entered for drawback, and the facilities enjoyed by inspectors who were dishonest to defraud the Government. He pressed the inquiry, how these officers were to live on $1,090, when the weighers could not subsist on less than $2,400. He insisted that the estimate for family expenses, which had been read by Mr. WISE, was exaggerated greatly, especially in the items of fuel and house rent. No doubt, the estimate had been furnished to the gentleman by persons who had an interest in the decision. The question was not how much a man could spend, but what was a just reward for the labor he performed. The inspectors were well satisfied with their three dollars per diem; and why should one officer get $2,000, when another who did as much, and more, got but $1,000? Mr. H. contended that fewer weighers might get through with all the public duty that was to be done; and he protested against keeping up an army of unnecessary retainers on the treasury, for no purpose but to strengthen the hands of power, and who were under every temptation to become the mere tools of those who fed them.

Mr. McKIM said that, in consequence of what had been said respecting the enormous emoluments of custom-house officers in Baltimore, he had procured a certificate, which he held in his hand, and would read to the House, from which it would appear that the collector of that port received in the year 1834 just $433, and no more. In the preceding year his income had amounted to $1,582. Mr. McK. said he had been a practical merchant for forty years, and he must be supposed to know something about the subject before the House. If the salaries of these officers had got wrong, the fault did not lie at their door, but was chargeable upon that House. No man had tried harder than he had to get these very salaries reduced; but the House had refused to do it. This was no fault of the officers, nor was it fair that they should be reproached on account of it. In Baltimore there was one weigher who received, it appeared, $1,970; but out of this sum he had to pay all his laborers. In New York, which was a great commercial port, it was indispensable that they should have a great many; and he had understood that they were in the habit of dividing their receipts. He considered the amendment as out of place in any appropriation bill; the proper way would be to have a separate bill reported, allowing the collectors, and all the subordinate grades of officers, fixed salaries: then all would work right. He inquired whether gentlemen who talked so loudly about the collector at Baltimore would have remained in that office during the embargo and non-intercourse times? He fancied not. Did gentlemen expect that collectors in the Southern ports, at New Orleans and Mobile, where the climate in the autumn was so unhealthy, would remain at their posts without an adequate remuneration for the sacrifice? Officers in such a climate ought in justice to be allowed more than at the North. It was true that some of the ports were small, and but little revenue collected; but the officers there were highly respectable, often among the most so of our citizens.

Mr. McK. stated what was done with goods entered for drawback, and showed that it was the interest of the inspectors to detect frauds, if any took place. From the manner in which this part of the collection was conducted, no fraud could be practised without a conspiracy of many persons for the same object. No doubt some frauds had occurred, but not to the extent supposed. Mr. McK. was opposed to the amendment, as too indefinite in its provisions. He should prefer the allowance of salaries.

Mr. WISE rose in reply. Gentlemen had asked, if the weighers could only live on $2,000 or $2,400, how could the inspectors live on $1,090? And what did their argument prove? That the weighers received too much? Not at all; but that the inspectors received too little. But was it a fact that the inspectors did live on $1,090? Did any gentleman believe that they lived and supported their families, as many of them did, on three dollars a day? Could any gentleman here say how much they did receive? The truth was, that there was scarce an inspector to be found that was not worth his thousands, which they had gathered from the "wee bits aboot the decks;" and this would ever be the case where the compensation allowed was too little for men to live on. He was for keeping these offices respectable, and in the hands of honest and responsible men. As to the alleged exaggerations in the estimate he had submitted, let the gentleman from Pennsylvania [Mr. HARPER] reduce the items of wood and fuel as much as he had proposed to do, still the amount would be over $1,100, beside all the other items, which had not been noticed at all. A respectable man with a family could not live in New York on less than $1,500.

Mr. HARPER said that he was unwilling the idea should go abroad that the inspectors of the revenue were dishonest men. It was his pleasure to be acquainted with many of these officers, and he could say, with truth, that more upright and honorable men were not to be found in the community. They did not receive a cent beyond their lawful salary. He would not consent to the statement that they lived on bribes. It was not the fact.

Mr. SUTHERLAND said that he owed it to the custom-house officers of Philadelphia to say that he did not believe there was a man among them who could with truth be charged with corrupt practices. He was acquainted with one who had been a gallant officer in the late war, and who stood as high in the estimation of society as any man in that House or out of the House. As to what his colleague [Mr. HARPER] had said about the inspectors being so content with their three dollars a day, he could tell that gentleman that he (Mr. S.) knew of applications for increase of pay, if his colleague did not. He had himself received such applications, both this year and the last.

He concurred in the sentiment of the gentleman from Virginia, [Mr. WISE,] that if you wanted good officers, the best way was to pay them well. The corruption which had prevailed in the English mode of collecting

the revenue was proverbial: but that Government had determined to probe that matter to the bottom, and to reform it. True, by clipping and shaving, it might be possible to live on something less than they now did; but was it good policy to render this necessary? The gentleman's estimate was for two children only. Mr. S. knew inspectors who had six and eight children. Were gentlemen for cutting them down to the old rule? Would they insist upon knowing how many cords of wood they burnt? would they weigh the pounds of butter they ate, that they might go home and tell their constituents what wonders they had effected in the matter of public economy? What use was it to insist upon the Secretary of the Treasury's taking care of the public money after it was received, if the very avenues by which it went to the treasury were left exposed to waste and fraud? The new invention of gentlemen to guard these avenues was to cut down the living of those who guarded them. It was no wise way, in his judgment.

Mr. S. said that he had purposely refrained from entering into the debate: he did not now wish to embark in it. He was convinced the amendment was wrong, and he could show it: but he had rather the bill should pass, even with the amendment in it, than be thus delayed. The committee would yet send in a bill on the subject. They would endeavor to provide themselves with golden scales to weigh every pound of butter to be allowed to these officers and their families: they should endeavor to fix how much they should receive if they had six children, and how much less should be allowed if they had only five. The committee had been called upon for a bill of this kind, and they should endeavor to respond to the call. In the meanwhile, the sooner the House disposed of this amendment the better. If it should be adopted, his colleague knew officers who would not realize more than three or four hundred dollars for their year's labor; and even collectors would not receive over $1,500. And the risk of this was to be incurred that we might appear well elsewhere, and be able to say I kept down the salaries to $2,000, while at the same time he knew that the men did not receive $500! It was a mockery! Mr. S. concluded by declaring that he was willing now, as he had been last year, that the salaries of the subordinate officers should not exceed $2,000: but he should oppose a measure which would cut them down to less than a fourth of that sum.

Mr. BURGES addressed the House, but, owing to his distant situation, could not be distinctly heard by the reporters. He was understood to say that he should not have mingled in the debate, had not things arrived at such a pass that members of that House were to be openly sneered at because they wished to keep the expenditures of the Government within something like reason. It was the first time, within his remembrance, that a member on that floor had been sneered at, and almost insulted, for endeavoring to do his duty in curbing official extravagance. Every thing, it seemed, must give way before the office-holders of this Government. When a meritorious naval officer had lately applied for his just due at the hands of this House, certain gentlemen had said that if he was not willing to perform the services of two offices for one salary, he was at liberty to resign. Yet now these same gentlemen were ready to sneer at those who considered $2,000 a sufficient living for a man who weighed salt and sugar. If these men could not live on that, let them resign: there was land enough, very cheap and very fertile, some yielding thirty, some sixty, and some a hundred fold. Their absence would scarce be felt. There was enough of them to form an army; some ten or fifteen thousand of them might be enlisted before to-morrow. The House had been told that the way to make men honest was to give them plenty of money. This Mr. B. never knew before. He had till now been in the habit of believing that, if a man was not honest, neither the touch nor the complexion of gold would purify or raise his corrupt and abject soul. He was willing to give to United States officers the same compensation for labor as was secured by other people, and no more. Look round the country, and see the general rush to get into office. This was the course of things which threatened ruin to the liberties of our land. These men were now willing tools; they vied with each other in subserviency: but after they had lent their aid and established a despotism, they would soon find that they would have to work for much less than they got now. The people got for their labor fifty per cent. less than their servants did for theirs. He knew it to be so, and he considered it high time that the matter was regulated. But gentlemen told the House that they must not adopt the amendment to effect this object, because a certain committee had it in contemplation to introduce a bill. But he was well satisfied that the committee would continue contemplating, and never come to an end till the office-holders were so multiplied that they howled daily for more. It was a very convenient thing for those in power to have a host of places with salaries at their own discretion, where they might reward meritorious services. It was a most glorious thing thus to wield a little arbitrary power against the interests and happiness of their fellow-men. If the Committee of Commerce were determined not to do their duty, Mr. B. was for a measure that would crowd the office-holders to crowd the committee.

Mr. MANN, of New York, did not wish to enter into the debate, but merely to assign the reason why he should vote against the amendment. He had been informed by a member of the Committee of Finance in the Senate, that it was the purpose of that committee to introduce a bill expressly to regulate this whole matter. This bill would probably reach the House in time for its action this session.

Mr. HARPER replied with some warmth to what he considered as the sneers of his colleague, [Mr. SUTHERLAND,] who had charged him with a wish to count cords of wood and weigh pounds of butter. His colleague might sneer as he would, but he never could consent that a weigher should receive $6,000 a year, while the workmen, who actually did the weighing, received but $24 a month. He should have supposed that his colleague's very philanthropic feelings, his great and extensive benevolence towards poor men, would have led him to inquire how these laborers got along upon $24 a month. Had these men no wives and children to feed? no houses to live in? no wood to buy? He thought it would have been quite as kind and quite as becoming to look after the wants of these people as of the weighers and gaugers, with their five and six thousand dollar salaries. Had the gentleman attended to his own duty as chairman of the committee, who had been two years in reporting a bill, he would have been spared the need of sneering at him. Had that been done, the collector of Baltimore would have been provided for, and not have been living one year on one thousand dollars, and another on three or four hundred dollars. The gentleman had talked about inspectors, and their need of large incomes. But he would ask the gentleman who our inspectors were, and what had the most of them been previously to their appointment to that office? They were, for the most part, honest and respectable mechanics, who earned a dollar and a half or two dollars a day, and supported a wife and children on that. Why must they get so much more because they were paid out of the treasury?

Mr. SUTHERLAND denied having sneered at any

one; but when he heard his colleague talk about the number of cords of wood the weighers would burn in a winter, he had expected the next thing would be to weigh the butter they ate. The gentleman seemed to suppose that there was some one of these weighers who was particularly important in his eye; he could tell that gentleman, and tell the House, that there was not one of all the custom-house officers in the country who had the slightest shadow of a claim upon him. It was not true that he was the advocate of these men because they belonged to a certain establishment. The gentleman might know that that establishment had always been opposed to him. Yet he did not, on that account, wish to count their sticks of wood, nor weigh their pounds of butter. As to what reports might be sent home respecting his course, he cared neither for lying letters or false records. He would say, however, for the sake of the city of Philadelphia proper, (a city which he loved, as he did the people in it,) to his colleague, that he had better go to another place, in a different part of the Capitol, and ask there, why, with all their light, and knowledge, and learning, and dignified standing, it happened that they had made no report yet? Those gentlemen were learned, intellectual, of high and dignified standing; their minds were capacious, and their extent of commercial, and all other species of learning, was almost equal to that of his colleague. Yet it seemed they had not been able to settle this knotty question of custom-house compensation; and need his colleague be astonished that a poor humble man like himself should have failed to introduce a measure that should embrace and equalize all the various interests concerned in such an arrangement?

He would conclude by saying that the Committee of Commerce had under their consideration a proposition which would speedily be laid before the House, and which his colleague might weigh and re-weigh at his leisure. For himself, he went for the country, and the whole country; but God Almighty had not been kind enough to give him a mind which could in a moment grasp all the delicate relations and complex considerations pertaining to all the collectors in all the collection districts, in all the different States in this Union.

Mr. VANCE said that he must again ask the indulgence of the House for a moment, and he assured them that he asked even that moment with reluctance. As to the contest between the two members from Pennsylvania, [Messrs. SUTHERLAND and HARPER,] he was willing to let it rest where it then was. But he wished to say a word in answer to the member from Tennessee, [Mr. POLK.] That gentleman had stated that this whole matter was regulated by law, and the member has read us sundry extracts from that law. Now, sir, I am not going to controvert that point with the honorable member. The honorable member and myself do not differ about what the law is, but about what it ought to be. The very law he has read gives unlimited discretion to your custom-house officers, with the consent of the Secretary of the Treasury. This discretion I wish to limit, and I have shown, from the increasing of contingencies and subordinate officers, that it ought to be limited; and if I understand the honorable member, he does not himself object to the propriety of the measure, but to the manner in which it is made. His objection is to the restriction and limitation being put into the appropriation bill. Sir, it appears to shock certain gentlemen to have any restrictions put into the appropriation bills. It is perfectly right to incorporate sections into them that throw the doors of the treasury wide open to the discretion of your custom-house officers and Secretary of the Treasury; but, if you undertake to restrain this discretion, gentlemen become alarmed, lest some new principle shall be established, dangerous as precedents, and contrary to the spirit of the constitution.

One word, Mr. Speaker, as to the argument of the member from Virginia, [Mr. WISE,] and I have done. That gentleman undertakes to justify this extraordinary increase of expense in clerk hire and stationary, because, as he says, the law of 1832 required you to open at the custom-house three sets of books. Now, sir, all I have to say upon that subject is, that the gentleman has been misinformed, and that the facts will not bear him out. As, unfortunately for his argument, the increase had been from $16,000 in 1829 to $47,000 in 1831, and stationary in proportion; so that you will see that this increase had commenced one year before the passage of the law of 1832. The gentleman has gone into a labored calculation to show the House that this amendment will starve the poor weighers, and that they will be compelled to abandon their places. Now, sir, the gentleman may be better informed on this subject than is the Secretary of the Treasury; but that officer, in the bill he has submitted to us for our consideration, has fixed the compensation of weighers at $1,200; and, after all the gentleman's deductions, he has not been able to reduce their compensation, under this amendment, lower than $1,300; so that the weighers are better off under this amendment than they would be under the adoption of the Secretary's bill. As to the remarks of the member from New York, [Mr. MANN,] I can only say that, if the bill passes the Senate, of which he speaks, this amendment will fall of course; and it cannot do harm to keep it where it now is. If we fail to legislate this session, this provision will ensure action at the next; if we do legislate this session, the amendment does harm to no one.

Mr. WILLIAMS moved a call of the House, but the motion was rejected.

Mr. McKAY requested Mr. VANCE to modify his amendment, by striking out that clause of it which provided that the subordinate officers should not receive more than they had under the act of 1832.

Mr. VANCE accepted the modification; whereupon

Mr. McKAY avowed his determination to vote for the amendment.

Mr. HALL, of North Carolina, declared a contrary purpose, and explained his reasons in a speech, scarce one word of which was audible at the reporter's table.

Mr. ADAMS, of Massachusetts, said that he should be compelled to vote against the amendment, because it went to introduce into an appropriation bill that which was foreign to it. Had he before entertained any doubt of the impropriety of thus encumbering appropriation bills, the present debate must have effectually removed it. Here had the House been occupied nearly a week, after they had gone through all the sections of the bill, on a matter which had nothing to do with it, and which could not be properly settled until it had received a full and deliberate examination. He took this opportunity of returning his thanks to the Committee of Ways and Means and its chairman, for having stripped the bill, in the manner they had done, of all matters of an extraneous kind. He hoped a similar course would be pursued for the future.

Mr. SCHLEY opposed the amendment on the same ground, and contended that the proviso, as it referred to a matter not in the bill, would not make common sense. If the object was to do justice, the provision of the bill of 1834 ought to be incorporated. The yeas and nays were now taken on the amendment, and it was adopted as follows:

YEAS—Messrs. Heman Allen, John J. Allen, Chilton Allan, W. Allen, Anthony, Archer, Ashley, Banks, Barber, Barringer, Bates, Beaty, Beaumont, Bell, Briggs, Burd, Burges, Casey, Chambers, Chilton, Claiborne, W. Clark, Clayton, Clowney, Coulter, Crane, Crockett, Darlington, Davis, Davenport, Deberry, Denny, Dickson, Dickinson, Evans, Ewing, Fillmore, Forester, P. C. Fuller, Gamble,

Garland, Gholson, Gordon, Graham, Grayson, Grennell, Griffin, Hamer, Hannegan, Hardin, Harrison, Henderson, Hiester, William Jackson, E. Jackson, Janes, Jarvis, William Cost Johnson, Seaborn Jones, King, Kinnard, Laporte, Letcher, Lewis, Lincoln, Love, Lucas, Lyon, Martindale, Marshall, May, McComas, McKay, McKennan, McLene, Miller, Milligan, Robert Mitchell, Moore, Peyton, Pickens, Pinckney, Plummer, Potts, Ramsay, Rencher, Reynolds, Robertson, William B. Shepard, Augustine H. Shepperd, Sloane, Spangler, Steele, Stewart, William P. Taylor, Philemon Thomas, Tompkins, Trumbull, Turner, Tweedy, Vance, Vinton, Wagener, Watmough, Frederick Whittlesey, Elisha Whittlesey, Wilde, Williams, Wilson, Young—110.

NAYS—Messrs. J. Q. Adams, John Adams, Baylies, Beale, Bean, Binney, Blair, Boon, Brown, Bull, Bunch, Burns, Bynum, Cage, Cambreleng, Carmichael, Carr, Chaney, Chinn, Samuel Clark, Coffee, Cramer, Day, P. Dickerson, Dunlap, Ferris, Fowler, William K. Fuller, Fulton, Galbraith, Gillet, Gorham, Joseph Hall, Thomas H. Hall, Halsey, Joseph M. Harper, James Harper, Hathaway, Hawkins, Hawes, Howell, Hubbard, Huntington, Inge, Richard M. Johnson, Noadiah Johnson, Henry Johnson, Kavanagh, Kilgore, Lane, Lansing, Luke Lea, Thomas Lee, Loyall, Lytle, Abijah Mann, Manning, John Y. Mason, Moses Mason, McIntire, McKim, McKinley, McVean, Morgan, Murphy, Osgood, Parks, Parker, Patterson, D. J. Pearce, Phillips, F. Pierce, Pierson, Polk, Pope, Schley, Shinn, Slade, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Thomson, Turrill, Vanderpoel, Van Houten, Wardwell, White, Wise—92.

So the amendment of Mr. VANCE was agreed to.

Mr. LINCOLN, of Massachusetts, moved to amend the bill, by striking therefrom the item appropriating $38,000 for extra clerk hire in the Post Office Department, for the year 1834.

Mr. L. said that, from the returns contained in what was usually termed the "Blue Book," the items of which were understood to rest upon official authority, it was stated that the whole force of clerks in the Post Office Department consisted of men employed on stipulated salaries; and, if so, then there was no such expenditure as extra clerk hire for the year 1834.

The Blue Book exhibited a list of seventy-five clerks; their names and their respective salaries were stated. It appeared that every clerk was a salaried officer, and not a person hired for a merely temporary purpose. Was not this true? Could any one doubt it? If the names were truly given, and the salaries truly stated, and there were no other clerks employed but these, then what pretence could there be for talking about extra clerk hire? Was not extra clerk hire a technical phrase of definite meaning? And did it apply to the regular clerks of a Department employed on a fixed annual salary? Such persons were not extra clerks; they were not persons occasionally employed for hire, but men regularly and statedly employed upon an annual salary. There was, therefore, no foundation for this item of $38,000 for extra clerk hire. Let gentlemen look at the document. Was the labor done by these clerks or not? If it was, then there was no extra clerk hire. By law, no more than thirty-seven clerks were authorized to be employed in the Post Office Department. But seventy-five had been actually appointed; and the object of the present appropriation was to pay the salaries of clerks who had been employed without any warrant; and not only without law, but against law. In June last, when the appropriation bill had been passed, there was an estimate of $42,000 for the pay of thirty-four clerks, and there was also an item for extra clerk hire for the year 1833, and so it had proceeded from year to year. Mr. L. had taken the pains to collate the several acts which had passed on this subject, and he would now take the liberty of presenting a list of them to the House. [Mr. L. then read the list from a paper in his hand.]

So careful had Congress been to regulate this matter of the appointment of clerks, that they had even specified the number of messengers that should be employed. Thus the law stood to the present day. There was no authority for the employment of any more. Yet the administration now came and demanded an appropriation for thirty-eight new clerks; and this was termed an appropriation for extra clerk hire. The number of clerks employed without law was actually greater than the number allowed by the law. It was a mockery, and worse than a mockery. It sanctioned the creation of officers under this Government without the shadow of legal authority, and at the mere discretion of a Department of the Government. He put it to the chairman of the Committee of Ways and Means [Mr. POLK] to say whether any extra clerk hire was needed, other than for the men whose names were set down in the Blue Book, and whose stated salaries were there specified? And if not, by what ingenuity he could discriminate between those statedly employed and those whose employment was termed extra. And he asked that gentleman to state what substantial difference there was between sanctioning an illegal act and doing an illegal act prospectively? Supposing the $38,000 now asked had been asked prospectively, for the purpose of hiring clerks without sanction of law, would not every member have objected to such an item? Would it not have met with the same opposition as the item for employing an extra clerk in the State Department had done? Would not gentlemen have urged that the appointment was not sanctioned by law, and that if such an expenditure was necessary, the office must first be provided for in a separate bill? There was no getting over this. But what was the fact in the present case? The Postmaster General created the office, appointed the officer, and then came to that House to sanction what he had done, by furnishing the money to pay the salary. If the creation of offices was to rest with Congress, then it was time for that House to give an admonition to those who thus attempted to take the power of appointment out of its hands.

Mr. L. said he had another objection. By the law of 1818, it was made the duty of the Postmaster General to report to Congress the number and names of the clerks employed in his office. [It being now late, Mr. LINCOLN here gave way for a motion by Mr. WILLIAMS that the House adjourn. On that motion Mr. POLK demanded the yeas and nays, but did not insist upon the call; and the question being put, the motion was negatived: Ayes 54, noes 79. So the House refused to adjourn.]

Mr. LINCOLN resumed. The Postmaster General was required, as he had said, to make a return of his clerks. If any such return had been made during the present session, it had escaped Mr. L's notice. Now, he should object to granting money to any Department of this Government until the head of it was brought into subjection to the law. He would not, with the statute book in one hand, put the other hand into the treasury to give an officer of the Government a sum of money for that which he had done in defiance of Congress, and in defiance of the law. The Postmaster General had not made any return of his clerks; if he had, and the list in the Blue Book was to be considered as that return, then his own document contained a list of seventy-five; if he had not, then the House had no evidence that even the original number of thirty-seven were employed. The chairman of the Committee of Ways and Means might take either horn of the dilemma. If the Blue Book were

not the return of the Post Office Department, the House had no return, and did not know how many clerks were employed. If it were his return, then no extra clerk hire was needed. The other heads of Departments, the Secretary of War, the Secretary of the Navy, the Secretary of the Treasury, the Secretary of State, had all made returns of the number of clerks they employed. Why should not the Postmaster General do the same? There was another item for "contingencies," and that in a Department which expended three millions of dollars without any account to the Government: for when had the account been settled? Mr. L. had thus stated the two principal points of his objection. At so late an hour of the day he would not further enter into an argument. He was aware that it might be said that this was premature; that an investigation was going on, and that, by and by, the House would get all the facts, whether they were given by the Postmaster General or not. An investigation! For what purpose? Was it to be made in February, to be published in May, and to reach the members of this Congress (as some of the returns called for last year had done) in September or October; when the Postmaster General had, in the meanwhile, obtained the sanction of Congress to all his illegal appointments? Every one knew it was impossible that the report of the investigating committee could now be presented to Congress in time to be acted upon. In saying this, however, he intended no reproach upon the committee. He knew that they had been working night and day, that they had a Herculean task, such as required the strength of more than common men. He did not complain of the unavoidable delay, but he objected to an act which would give the sanction of Congress to the Postmaster General, in doing what he ought to have sought the authority of law to do. Mr. L. should ever object to paying clerks who had not been appointed according to law. He did not deny that a greater force was requisite in the Department than the law allowed; but that was a matter for Congress, not for the Postmaster General. Neither did he say that these clerks should not be paid for their labor; but he was for charging home the whole amount to the Department. He was for compelling the Postmaster General to do what that officer had said he could do with $300,000. He would charge these $38,000 to his account. He would load him down till he brought him to the door of that House to seek for relief. He cared not how great his debt was, nor how much he was impeded, so long as he continued to act without law. The refusal of the item would not injure the clerks; they were all paid. The only question was between Congress and the Department. The only question was, whether a subordinate officer of the Government should or should not come to the Legislature for legal authority before he acted without it? Let that officer send a representation to the House to-morrow, and Mr. L. would give him as many clerks as he wanted: then he would be under law; now he was above law. His object was to bring that Department into subserviency to the Government. Hitherto it had overridden the Government; and, holding as it did the avenues of knowledge, and in that respect the keys of public opinion, he feared it would yet override the liberties of the country.

Mr. POLK rose in reply, and promised not to occupy the House one fourth part of the time which had been consumed by the gentleman from Massachusetts. The question lay within a small compass. The clerical force provided by law for conducting the duties of the General Post Office was inadequate to that object. Congress had been informed so, and had been applied to from time to time to increase it. The House had thought fit not to do this directly, but had sanctioned the employment of extra clerk hire from the year 1828 to the present time. The gentleman from Massachusetts seemed to have forgotten that, when this same question was brought up by him last year, a letter had been produced and read from the former Postmaster General, [Mr. McLean,] who stated that it had always been the practice to hire extra clerks, as their services became necessary, until a permanent provision was made by law. Whatever allusion the gentleman might have had to the investigations now going on in that Department, Mr. P. affirmed, in his place, that the fault, if any, of employing these extra clerks, was chargeable not on the Post Office Department, but on the neglect of Congress. Let the gentleman look at the General Land Office; was not the same thing done there? Let him look at the pension office, was it not the same there? There was no avoiding it. Congress must either provide the necessary clerks, or they must be employed by the Department. The present movement might possibly be intended as the commencement of a general attack on the Post Office. If that was the object, Mr. P. should not sanction it. He was astonished that the gentleman from Massachusetts, whose reputation had preceded him in that hall, should so misunderstand a plain matter, or should possess the faculty of so peculiarly mystifying the understanding that he had of it. The gentleman took up the Blue Book. He found there the names of all the clerks employed in the Post Office, with their respective compensations, and then the gentleman cried out, what need of extra clerk hire? But this the gentleman voluntarily was ignorant of, or wished to appear so, that the return in the Blue Book covered not only the clerks regularly employed under the sanction of law, but also the extra force which had from necessity been employed at the Department. It comprised the whole: the labor had been done, and the question was, whether it should be paid for.

The Postmaster General was not to blame. Various bills had been reported to the House, providing for the requisite force, but until recently the Committee of Ways and Means had not supposed that they possessed jurisdiction respecting the particular number of clerks to be employed; but a resolution had passed the House ten days since, which expressly conferred upon them this jurisdiction, by requiring of them to report the number of clerks that would be requisite, and what reductions could be made in the expenses of the Department. The committee would shortly report a bill on that subject, and he now invoked beforehand the aid of the honorable gentleman when it should come before the House. They designed to have the number of clerks reduced, and he should stand up in his place and make a strong appeal to the House on that subject. Supposing the Postmaster General had not employed those clerks, the public business must have stood still, although the extent of the duties of the Department have been quadrupled. He trusted they should get the question on the bill.

Mr. R. M. JOHNSON had been in hopes that a subject which seemed so exciting would have been suffered to rest until the House received a report from their committee in relation to it, and they had the facts before them. He must profess his astonishment at the looseness of his friend's memory, in relation to the Post Office Department. The gentleman had made, almost verbatim, the same speech last session, and it had been out of order then, as it was out of time now. Mr. J. stood there as the personal friend of the man who seemed to be the object of a general war in the Congress of the United States. He considered him as an upright and an honorable man, and not as a lawless man. What he had done was not without law or without precedent. He should not, however, go at this time, into his defence. If the gentleman would have but a little patience until the House could put its hand upon the facts, he might then attack as he pleased, and it would be all fair. But he must be

permitted to say that he did not consider it very kind or very honorable, or consistent with the high character of a gentleman who had presided over a great State of this Union, to attempt to represent a Department of this Government as lawless, for doing what had always been done, and to deny to it what was necessary to the public service, until he should have been able, to use his own expression, to bring that Department within the law.

[Mr. LINCOLN rose to explain. When he had accused the Department of a violation of law, he had shown expressly in what particular the law had been violated. He had referred to acts of Congress, and supported his assertions by documentary proof. If the Postmaster General had employed more than twice the number of clerks the law allowed him, he must again declare that in that respect he was lawless.]

Mr. JOHNSON resumed. He had thought at the last session, that the gentleman from Massachusetts had exhibited peculiar pertinacity, not to say obstinacy, in pressing this subject. The gentleman, in his zeal to attack the Department, had twice brought this matter before the House prematurely. It was for that gentleman to use precisely such language as he chose to employ, and Mr. J. should exercise the same liberty.

The question being put, the amendment of Mr. LINCOLN was negatived, without a count.

Mr. BEAUMONT moved farther to amend the bill by striking out the item for a library for the use of the Attorney General.

Mr. JACKSON, of Connecticut, opposed the amendment.

Mr. HARDIN said he was utterly opposed to granting appropriations for separate libraries, either to the Departments, or to the Attorney General. He would willingly vote rather for an increase of $10,000 more for the library of Congress, where he supposed the Attorney General, as well as the other heads of Departments, might readily come for such books as they wanted. The application for books for the use of the Attorney General's office, never, heretofore, had been made; and as this Attorney General had, with his public business, private practice to attend to, as well as former Attorneys General; the appropriation, consequently, would be of a private benefit, not so much, as to the public. For, if he practised as they did, and doubtless he did, he must have his own books to enable him to do so. He wished the Congress library to be increased, desiring, like the ancient Roman, to see the Capitol the finest building in the universe; so ought, he thought, their library to be the boast of their country. He opposed the appropriation; believing that, from the day Congress would sanction a system of separate libraries, thenceforth their own would go down, and he therefore rejoiced at having an opportunity to record his vote against the proposition.

The question was then taken by yeas and nays, and decided as follows: Yeas 114, nays 48.

So the amendment was agreed to.

Mr. McKAY moved to amend the bill by adding an additional section, respecting the payment of debts due the United States in notes under par value; which was agreed to, *nem. con.*; when the bill was at length ordered to its third reading.

And then the House adjourned.

THURSDAY, JANUARY 29.

DEATH OF WARREN R. DAVIS.

After the reading of the journal,

Mr. PICKENS, of South Carolina, rose and addressed the House as follows:

Mr. Speaker: It becomes my melancholy and painful duty to announce to this House the death of one of my colleagues, WARREN R. DAVIS, of South Carolina. He died this morning, a few moments before 7 o'clock. Sir, it is not my province to speak in the language of eulogy, but I trust I may be permitted to say of the deceased, that, whatever were his faults, they were of such a nature as to sink with him into the tomb, and be forgotten; whilst those who knew him best will remember only that he had a heart full of human kindness, rich in all those qualities that constitute a gallant man. Under wit that was ever brilliant, and humor that never grew heavy, he covered a shrewd sagacity in relation to men, and a thorough knowledge of human affairs. As a public man, perhaps the ruling feeling of his heart was a deep and burning attachment to his native State. With him it was not as with most men, the ordinary principle of patriotism. No, it was a permanent, abiding, passionate affection for her, and all her institutions. So much so, that even in the last days of his lingering illness, at the very mention of South Carolina, you might see the fire of animated but sinking nature rekindle in his eye, and burn upon his cheek. It may be gratifying to his relations to know that, in his last suffering hours, even up to the moment of death, he retained the full exercise of all his faculties. And when it was announced to him that he would soon have to meet his God, he received the disclosure with the most perfect calmness and composure, and replied in these remarkable words, that "all he desired was to die easily and gracefully."*

It may also be to his relations a source of consolation to know, that, during his protracted sickness, up to his death scene, he had around him the kindest and most devoted personal friends, who ministered to him all that affectionate attention could prompt.

I will conclude by saying, that in his death this House has lost a prominent member, and his State a patriot citizen, who might have been to her an ornament in the brightest days of her proud career.

Mr. P. concluded by moving that the House will attend the funeral of the deceased at 12 o'clock to-morrow, and in respect for his memory wear crape on the left arm for thirty days; which motions were severally agreed to.

[The SPEAKER announced the following as the committee of arrangements for the funeral: Messrs. PICKENS, ARCHER, WILDE, HARDIN, COULTER, LANSING, McINTIRE, CRANE, and LEA of Tennessee.]

On motion of Mr. MANNING,

The House then immediately adjourned.

FRIDAY, JANUARY 30.

No business was transacted in the House of Representatives to-day; the House being engaged in attending the funeral obsequies of the late WARREN R. DAVIS, a member of the House.

SATURDAY, JANUARY 31.

AMENDMENT OF THE CONSTITUTION.

Mr. GILMER, from the select committee to which was referred so much of the President's message as related to an amendment of the constitution in respect to the mode of electing the President and Vice President, reported that the committee had had the subject under consideration, and had come to no conclusion on the same, and he therefore moved that the committee be discharged from the further consideration of the subject; which was agreed to.

Mr. GILMER asked leave to lay on the table the following joint resolution:

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* Doubtless having a classical allusion.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following amendments to the constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three fourths of the States, shall be valid to all intents and purposes as part of the constitution, to wit:

1st. No person who shall have been elected President of the United States shall be again eligible to that office.

2d. Hereafter the President and Vice President of the United States shall be chosen by the people of the respective States, in the manner following: On the first Monday and succeeding Tuesday and Wednesday in the month of August, eighteen hundred and thirty-six, and the same days in every fourth year thereafter, an election shall be held for President and Vice President of the United States, at such places, and in such manner, as elections are held by the laws of each State for members of the most numerous branch of the Legislature thereof. And the citizens of each State who possess the qualifications of electors of the most numerous branch of the State Legislature shall then and there vote for President and Vice President of the United States, one of whom shall not be an inhabitant of the same State with themselves. And the superintendents or persons holding elections in each election district shall immediately thereafter make returns thereof to the Governor of the State. And it shall be the duty of the Governor, together with such other persons as shall be appointed by the authority of each State, to ascertain the result of said returns, and the person receiving the greatest number of votes for President, and the one receiving the greatest number of votes for Vice President, shall be holden to have received the whole number of votes which the State shall be entitled to give for President and Vice President: which fact shall be immediately certified by the Governor, and sent to the seat of the Government of the United States, to each of the Senators in Congress from such State, to the President of the Senate, and to the Speaker of the House of Representatives. The places and manner of holding such elections, of canvassing the votes, making returns thereof, and ascertaining their result, shall be prescribed in each State by the Legislature thereof. But Congress may, at any time, make or alter such regulations. Congress shall have the power of altering the times of holding the election, but they shall be held on the same days throughout the United States: and of altering the time, hereinafterwards prescribed, for the assembling of Congress every fourth year. The Congress of the United States shall be in session on the second Monday in October, in the year one thousand eight hundred and thirty-six, and on the same day in every fourth year thereafter; and the President of the Senate, in the presence of the Senate and House of Representatives, shall, as soon as convenient and practicable, proceed to open all the certificates and returns, and the electoral votes of the States shall be thereupon counted. The person having the greatest number of votes for President shall be President, if such number be a majority of the whole number of votes given; but if no person have such majority, or if the person having the majority of the whole number of votes given shall have died before the counting of the votes, then a second election shall be held on the first Monday and succeeding Tuesday and Wednesday in the month of December then next ensuing, which shall be confined to the persons having the two highest number of votes at the preceding election. But if two or more persons have the highest and an equal number of votes, then to the persons having the highest number of votes: Provided, however, if in the first election there were but two persons voted for, and the person receiving the highest number of votes shall have died before the counting of the votes, then, in the second election, the choice shall not be confined to the persons previously voted for, but any person may be voted for who may be otherwise qualified by the constitution to be President of the United States; which second election shall be conducted, the returns made, the votes counted, and the result of the election in each State certified by the Governor, in the same manner as in the first, and the final result of the election shall be ascertained in the same manner as in the first, and at such time as shall be fixed by law or resolution of Congress; and the person having the greatest number of votes for President shall be President. But if two or more persons shall have received an equal and the highest number of votes at the second election, or if the person who shall have received the majority of the whole number of votes given at the second election shall have died before the counting of the votes, then the House of Representatives shall choose one of the remaining number of the persons voted for for President in the manner now prescribed by the constitution. But if there shall have been but two persons voted for in the second election, and the person who shall have received the highest number of votes shall have died before the counting of the votes, the Vice President then in office shall be President for the next succeeding term. The person having the greatest number of votes for Vice President, at the first election, shall be Vice President, if such number be a majority of the whole number of votes given. And if no person shall have received such majority, or if the person who shall have received the majority of the whole number of votes given shall have died before the counting of the votes, then, of the persons having the two highest number of votes, the Senate shall choose one for Vice President; but if two or more persons have the highest and an equal number of votes, then the Senate shall choose a Vice President from the persons having the highest number of votes. But if there shall have been but two persons voted for, and the person who shall have received the highest number of votes shall have died before the counting of the votes, then the remaining person shall be Vice President; or if all the persons voted for shall have died before the counting of the votes, then the Senate shall choose one of their own body for Vice President.

3d. No Senator or Representative shall be appointed to any civil office, place, or emolument, under the authority of the United States, during the time for which he was elected, and for six months afterwards.

Mr. SPEIGHT asked whether it was the intention of the mover to press the consideration of the subject at the present session.

Mr. GILMER said it would depend upon the pleasure of the House.

Mr. SPEIGHT remarked that there was no subject of greater importance before the House, and though we were so near to the end of the session, he hoped the gentleman would move the postponement of the resolution to a day certain, with a view to its consideration. Even if the subject should not be finally acted upon at this session, the discussion of it would be beneficial, inasmuch as it would bring the subject more fully before the people.

Mr. GILMER said he would be pleased to have the resolution read twice and committed to the Committee of the Whole on the state of the Union.

Mr. HUBBARD was, he said, totally opposed to the proposition, and to the commitment of the resolution, as proposed.

After a word or two from Messrs. SPEIGHT and ARCHER, the resolution was laid on the table and ordered to be printed.

ERENCH RELATIONS.

Mr. J. Q. ADAMS reminded the House that a few days ago he obtained permission to offer a resolution, calling on the President for any further information he might have touching the state of the negotiation with France on the subject of the treaty of 1831. The subject was very important, and it was one on which the House would soon be called to act in one way or another, and he therefore asked the House to take up and consider the resolution.

No objection being made, the resolution, which is as follows, was taken up and agreed to:

Resolved, That the President of the United States be requested to communicate to this House, if not incompatible with the public interest, any correspondence with the Government of France, and any despatches received from the minister of the United States at Paris, not hitherto communicated to the House, in relation to the failure of the French Government to carry into effect any stipulation of the treaty of the 4th of July, 1831.

J. N. REYNOLDS'S REPORT.

On motion of Mr. PEARCE, of Rhode Island, the House took up for consideration the resolution which he offered a few days ago, for printing 1,000 extra copies of the report of J. N. Reynolds to the Secretary of the Treasury, concerning the shoals, reefs, &c., of the South sea islands.

Mr. PEARCE modified the resolution so as to fix the number of copies at 2,000.

Mr. JARVIS opposed the resolution. It appeared to him, he said, that it was time to check this extravagance. We ought not to suffer people to throw upon Congress their worthless books, which could find their way to the press in no other manner.

Mr. PEARCE spoke of the importance of the information contained in the report. It embraced all the information in respect to the shoals, reefs, &c., of the South sea islands, which had been collected for the last twenty or thirty years. The information would be highly valuable to those who might navigate the South seas, and he hoped it would be generally distributed.

Mr. JARVIS said, let the gentleman who compiled this book print it at his own expense. If it was valuable, it would find purchasers. Mr. J. made several remarks in opposition to the resolution, which the reporter could not distinctly hear.

Mr. BURGES would not, he said, have uttered a word on this question but for the extraordinary character of the opposition made to the proposition of his colleague. While adorning this Capitol with marble statuary, at the expense of twenty or thirty thousand dollars, are we to be told that it is extravagance to spend a few hundred dollars in printing a book to warn the mariner of dangerous shoals? Should we do nothing for that toilsome industry which was the great support of all our national interests? The objection, he thought, ill became the quarter from which it proceeded. Was the great interest from which we derived our daily support to be utterly neglected? For commerce, from which we derived nearly the whole of our revenue, we had done less than for any other interest. The mariner, the navigator, and the merchant, were deeply interested in the publication of this document, and he would be willing to augment the proposed number twenty times, so as to place a copy in the hands of every man who is interested in the subject.

Mr. PHILLIPS was, he said, deeply convinced of the necessity of diffusing this valuable document among those who were concerned in the navigation of the South seas. Our navigation, in that quarter, had increased to an extent which would surprise those who were not acquainted with the subject. The amount of American tonnage employed there exceeded the aggregate amount of the tonnage of all other nations in the same employment. This navigation of the South seas was very little known, and little aided by maps or charts. All the nautical information by which it was assisted was derived from surveys ordered by other Governments, which were less interested in it than we were, or from charts prepared by individual navigators of our own country.

The subject was highly interesting to our commerce and navigation, and was entitled to the early attention of the Government. The publication of Mr. Reynolds's report would be one step towards making this important navigation known.

The resolution was then adopted.

PRE-EMPTION RIGHTS.

Mr. PLUMMER, by consent, offered the following resolution:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of granting to the settlers on the public lands within that district of country ceded to the United States by the treaty of Dancing Rabbit creek, in the State of Mississippi, where improvements have been covered by Indian and Jefferson college claims, and thereby deprived of the benefits of the pre-emption laws, a pre-emption right and other lands, in lieu thereof, and of granting unto them such other relief as they may deem equitable and just.

Mr. CAGE said he had some time since prepared a similar resolution in reference to those lands, but in a conversation with the chairman of the Committee on Public Lands, Mr. C. ascertained that a bill had been reported by that committee embracing the same objects, as far as related to the States of Alabama and Illinois; and the honorable chairman distinctly assured him that when that bill came up for consideration an amendment would be proposed thereto, to include the State of Mississippi, the session being so far advanced that a separate bill could not be passed.

Mr. CLAY said he did inform the gentleman that he would move an amendment embracing the State of Mississippi, in the bill referred to; not doubting that if the House were disposed to pass the bill relating to Alabama and Illinois, they would not object to the proposition for Mississippi. He had, however, no objection to the resolution being agreed to and referred to the Committee on Public Lands.

Mr. PLUMMER explained that the resolution embraced other objects, relative to settlement rights, than those referred to by his honorable colleague.

Mr. CLAY was not at first aware of that, and therefore he trusted the resolution would be adopted.

The resolution was then agreed to.

CLAIM OF THE HEIRS OF ROCHAMBEAU.

A message in writing was received from the President of the United States, by Mr. Donelson, his private secretary, which was read, and is as follows:

To the House of Representatives of the United States:

With reference to the claim of the granddaughters of the Marshal de Rochambeau, and in addition to the papers formerly communicated, relating to the same subject, I now transmit to the House of Representatives, for their consideration, a memorial to the Congress of the United States, from the Countess d'Ambrugeac and the Marquis de la Goree, together with the letters which accompanied it. Translations of these documents are also sent.

ANDREW JACKSON.

The message was ordered to be printed and lie on the table.

GENERAL APPROPRIATION BILL.

The bill making appropriations for the civil and diplomatic expenses of the Government for the year 1835 was then taken up, read a third time, and passed.

The House then proceeded to the orders of the day, being private bills.

The question pending being the further consideration, in Committee of the Whole, of the bill for the relief of the legal representatives of

RICHARD W. MEADE.

Mr. WHITTLESEY, of Ohio, said he hoped the friends of that bill would consent to its temporary postponement; for he feared, if it was taken up, no other business would be acted on that day.

After some conversation between the CHAIR, Messrs. WHITTLESEY, POLK, ARCHER, HUBBARD, MANN of New York, and VINTON,

This bill, with several others, was laid aside; and the House, on motion of Mr. WHITTLESEY, of Ohio, resolved itself into a Committee of the Whole, (Mr. WARD in the chair,) and proceeded to take up and consider a large number of private bills, many of which were ordered to a third reading; when the House again went into Committee of the Whole, and spent the remainder of the day in the consideration of private bills, many of which were reported to the House; when,

The House adjourned.

MONDAY, FEBRUARY 2.

SLAVERY IN THE DISTRICT OF COLUMBIA.

The House proceeded to the consideration of several petitions and memorials from sundry citizens of the State of New York, (one of which was signed by eight hundred ladies,) praying the abolition of slavery and the slave trade in the District of Columbia, presented last Monday by Mr. DICKSON, and laid over to this day.

Mr. DICKSON rose and addressed the Chair as follows:

Mr. Speaker: On the presentation of these petitions, and asking for them a different reference from that usually given to such petitions, I propose to offer a few remarks. They shall be presented in that blended spirit of freedom and candor, truth and justice, that becomes a member of this House. I will not conceal my own feelings, and I shall studiously avoid intentionally injuring those of others. And whilst I am opposed to and deeply deplore the existence of slavery in every form, and in every land, I, in common with the petitioners, disclaim all power in the national Government to control or abridge its duration in the several States of this Union. And throughout these remarks, in speaking of slavery in this country, I wish to be understood as confining my remarks to that portion of the country over which the national Government has ample and complete jurisdiction, and the sole power of legislation, and that is the District of Columbia. One of the petitions is signed by more than eight hundred ladies of the city of New York. In the Jewish, Greek, and Roman histories, we learn that female remonstrance and entreaties were often heard in the public councils, and, in one instance, were the cause of "enlargement and deliverance," of "light, and gladness, and joy, and honor," to a despised and an oppressed people; and in all instances roused the patriot, the statesman, and the hero, to deeds of usefulness and glory, and were all-powerful in expanding and extending the principles of charity, humanity, and benevolence, and in breaking the chains of oppression. In the chivalrous ages of modern Europe, and since, and in the war of our independence, the influence of woman was talismanic over the heart of man, and roused to action all his noblest energies. And to her honor, all her remonstrances, petitions, and entreaties, and all her influence, have ever been exerted in favor of humanity, benevolence, and liberty. And, surely, the chivalry of this House will never permit it to turn a deaf ear to the remonstrance of ladies, pleading, as they believe, for the wronged and the oppressed.

The petitioners complain that a portion of the people of the District of Columbia are, without crime, disqualified as witnesses. A freeman may commit any crime, even murder itself, in the presence of slaves only, and escape conviction and punishment. They complain that, by the laws of the District, which are the laws of Congress enacted to govern the same, every black man, and every mulatto of every shade and complexion, though born and nurtured in freedom all his days, the moment he touches the soil of the District, is presumed a slave; and, by an ordinance of the city of Washington, he is treated as a disorderly person, and required to exhibit to the mayor, within thirty days, evidence of his freedom, and enter into a bond, with two freehold sureties, in the penalty of five hundred dollars, conditioned for his peaceable, orderly, and good conduct, and not to become chargeable to the corporation for twelve months, to be renewed at the commencement of each year for two successive years, or forthwith depart from the city, or be committed to the work-house until he complies with such requisitions; such imprisonment not to exceed twelve months for each neglect; so that the poor black or mulatto may be imprisoned at hard labor in the work-house, for the term of three years, although innocent, and without crime.

He may have been well educated, moral, and industrious; have exercised the elective franchise, and voted for the highest officers of the national and State Governments, entitled to all the rights and privileges of the white man, and of an American citizen; yet, in this District, he shall be presumed a slave, and in the city of Washington a disorderly person, and compelled to give security for his good behaviour for three years. No such presumption of crime is known to the laws of England, to the civil law, nor to the municipal code of the most despotic country in Europe. It has no foundation in the law of nature, the common law, nor in common justice, and is contrary to the genius and spirit of all wise and free Governments. It is a maxim, that every man is to be presumed free and innocent, founded on the immutable principles of eternal justice, acknowledged by all, and which can never be changed but by that arbitrary tyranny which feels power, forgets right, and knows neither mercy nor justice.

The petitioners complain that, by the laws of the District, every such free black man or mulatto, going at large without the evidence of his freedom, is liable to be taken up as a runaway slave, and thrown into prison, and sold for prison fees, as a slave for life, unless he proves his freedom. Unless he proves his freedom!—a freedom given him by a power older than the laws which incarcerate him—older than the country which gave him birth—older than the primeval days of time, and which shall endure when this world is on fire, and time shall be no more, by God himself.

They complain that, by the laws of that part of the District formerly Maryland, though such person be a freeman, and prove his freedom, and shall then refuse to pay the fees and rewards for apprehending fugitive slaves, he may be committed to prison, and sold as a slave for life; so that a freeman, although he does away the before-mentioned odious presumptions of law by

clear proof, must still pay for his own illegal arrest and false imprisonment, for being thrown into the damps of a dungeon, and shut out from the light of day, for all the injuries, indignities, and wrongs, that could be heaped upon him, or be sold as a slave, and never more to breathe the air of freedom. Terrible alternative! more afflictive to a human being, having the feelings of a man, of a freeman, than death itself. Such laws are meshes to entrap the unwary, and to consign a freeman to servitude for life. They are man-traps set at the seat of Government of this Republic to seize and drag into perpetual bondage a freeman, entitled to all the rights and privileges of an American citizen. Does such a statute blot the page or tarnish the annals of any other Republic on earth? Does it dishonor the pages of any monarchy or despotism now in the world? The tyranny of Caius Verres, in a province of the Roman empire, was mercy when compared with such a law. Many, very many freemen, have fallen victims to this merciless law, and lost all dear to them on this side of the grave.

The petitioners complain of the severity of the punishments that may, by the laws of the District, or of that part of it which was formerly Maryland, be inflicted on slaves; that any negroes, or other slaves, for rambling by night, or the riding of horses by day, without leave, may be punished by whipping, cropping, branding, or otherwise, not extending to life, or rendering them unfit for labor; and for murder, arson, and petit treason, to have the right hand cut off, to be hanged, to have the head severed from the body, the body divided into four quarters, and the head and quarters to be set up in the most public places of the county where the crime was committed. Such criminal laws, if not executed, and it is not pretended they are, to their full extent, appear like the relic of an extreme barbarous age, and, in this enlightened and humane age of the world, are a foul blot on our statute book, and ought to be modified or repealed.

The petitioners complain that, by the laws of the United States, the slave trade, in and through the District of Columbia, is permitted to be carried on with distant States, and that this District is the principal mart of the slave trade of the Union.

Sir, the foreign slave trade with Africa is condemned by the laws of this country, of England, of France, and by those of almost every nation of the civilized world, as piracy; and those who carry it on are denounced as outlaws and the common enemies of the human race. And yet we tolerate, in this District, and at our seat of Government, a traffic productive of as much pain, anguish, and despair, of as deep atrocity, and as many accumulated horrors, as the slave trade with Africa.

And here there are no foreign Powers to compete with us; we have no rivals; the trade is all ours, and the odium and the guilt are all our own. The traffic was, in former years, presented by a grand jury of the District as a nuisance. And, as long ago as the year 1816, it was denounced by the ardent and eloquent John Randolph, of Roanoke, on this floor, as a nuisance, and as "an inhuman and illegal traffic in slaves," and, on his motion, a select committee was appointed to inquire into the trade, and what measures were necessary for putting a stop to it. The committee were empowered to send for persons and papers; called before them many witnesses; and took numerous depositions, depicting in glowing terms the enormities and horrors of the traffic, and reported them to this House. But I do not find that any thing further was done by that talented, but sometimes eccentric man, or by the House.

Since that time the slave trade in the District has increased in extent, and in its enormities. Free blacks have been kidnapped, hurried out of the District, and sold for slaves. Slaves for a term of years have been sold to the slave traders, transported to a distant land, beyond the hope or possibility of relief; sold as slaves for life, and their temporary had been changed into a perpetual bondage. It has been said by a committee of this House, that the last-mentioned class may apply to the courts; that the courts are open to them in the District.

To talk to men degraded to the condition of cattle, (their masters their enemies, conspiring with the purchaser to deprive them of liberty for life, and no freeman their friend,) of courts of justice, is adding insult and scorn to injustice, and aggravating their doom by a mockery of all the forms and all the tribunals of justice.

Private cells and prisons have been erected by the slave traders in the District, in which the negro is incarcerated until a cargo of slaves, of "human chattels," can be completed. The public prisons of the District, built with the money of the whole people of the United States, have been used for the benefit of the slave traders, and the victims of this odious traffic have been confined within their walls. The keepers of those prisons, paid out of the moneys of the whole people, have been the jailers of the slave traders, until their drove, their cargo of human beings, could be completed.

The petitioners complain that a traffic so abhorrent to the feelings of the philanthropist, so replete with suffering and wo, is approved and licensed by the corporation of the city of Washington, which receives four hundred dollars a year for each license, thus increasing her treasures by the express sanction of so odious a trade. Finally, the petitioners complain of the existence of slavery in the District of Columbia, as the source of all the before-mentioned evils, and others too numerous now to detail. They consider it as unchristian, unholy, and unjust, not warranted by the laws of God, and contrary to the assertion in our Declaration of Independence, that "all men are created equal."

In the last debate, and in the last speech made on this floor on this subject, it was denied that these words meant, or had any allusion to slaves, and was asserted that many of the signers of the declaration were masters of thousands: "and had they an eye at all to slaves when they signed it, they would have been hypocrites, unworthy of being commemorated by patriots, or honest men." Then slaves are not men, for the terms used were the broadest that could be used, and embraced the whole species. Let us consider for one moment whether the blacks and the mulattoes of this country are men like ourselves, and whether the signers of our Declaration of Independence were hypocrites. Heathen poetry instructs us that man, a generic term, embracing the whole species, all sexes, all ranks and conditions, all colors, and all complexions, was created in the resemblance of the gods; and that, while other animals looked upon the earth and never raised their eyes, to him was given, by his God, a countenance of dignity and lofty grandeur; and he was commanded to behold the heavens, and raise his elevated looks to the starry mansions and the abodes of the Eternal.*

The heathen philosophers teach us that man was created in the likeness of the Almighty, of God; and neither heathen poetry nor heathen philosophers ever informed us of the creation of more than one species of man. By their doctrines, man was created the brother of his fellow-man, and his equal. The Old Testament informs us that "God created man in his own image, in the image of God created he him," and gave him dominion

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*Finxit in effigiem moderantum cuncta Deorum
Pronaque cum spectent animalia cætera terram;
Os homini sublime dedit; cœlumque tueri
Jussit Ærectos ad sidera tollere vultus.
[Ovid's Met. B. 1, verse 83, &c.

over all the earth, the fish, the beasts, the fowls of the air, and every creeping thing, but no dominion over and no power to enslave his fellow-man.

And here, again, we learn the creation of but one species of man. Christianity, in all its holy precepts, and the New Testament, instruct us that "God hath made of one blood all nations of men, to dwell on all the face of the earth." Revelation, then, yea, God himself, has declared there were and are but one species of man; that all men are descended from one common origin, and were all created equal. The wise framers of the Declaration of Independence, and the founders of this Republic, in accordance with the doctrines of heathen poetry and heathen philosophy, of Christian philosophy, of the Scriptures, and of Revelation itself, in that immortal instrument, the enduring monument of their wisdom, proclaimed to an admiring world, as "self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." Did they mean slaves? Can any one doubt that they did? They spoke of man not as black, or white, but as embracing the entire species, all colors and all complexions.

Enlightened citizens of a Christian country, they shall be presumed to have spoken as Christian men: and none but infidels, and those who deny the authenticity of the Scriptures, will pretend that God ever created more than one species, one race of men. They were no hypocrites. They were patriots, nobly struggling for their country's freedom; their hearts were warmed with the fires of liberty; they breathed benevolence and good-will to the human race, and, in deferential homage to the Ancient of Days, proclaimed aloud to the bond and free, the truth, impressed alike on the heart of the lettered and unlettered man by nature and nature's God, that "all men are created equal."

Whence, then, and who made the distinction between the white and the black man? It was not the decision of ancient times. Then the slave was the victim of conquest, and a white man. Nor has the decision of modern times been uniform on thi ssubject. For, as late as the eleventh and the first half of the twelfth century, hundreds and thousands of the youths of both sexes, of beautiful forms, from the peasantry of England, were fastened together with ropes, taken to the city of Bristol, and sold into slavery in Ireland. It was abolished on the conquest of Ireland by Henry II.

The slaveholders in ancient times, and in Ireland, contended with as much zeal for their right to enslave the white man, as any slaveholder in this District for his right to hold in bondage the black man or the mulatto.

It has been regretted by a committee of this House, "that persons without the District," as well members of Congress as others, "and having no concern with it," should attempt to procure the abolition of slavery and the slave trade here; and it was, in the year 1829, declared by a member of the House, in debate on this floor, to "be meddling with matters truly other men's."

Sir, the territory is federal, and is under the care, protection, and government, of the whole people of the United States. Congress is the sole legislative body for the District, to the exclusion of all others, and here possessing undefined, unlimited legislative powers, selected by the people of the whole Union. The whole Union defrays the expenses of the local Legislature and of the entire territorial Government, builds penitentiaries, endows schools and colleges, makes side walks, Macadamized roads, canals, aqueducts, and bridges, pays the interests on loans, and beautifies and adorns the District by its navy yard, its arsenal, its Capitol, and other public buildings and improvements, and enriches it by the annual expenditure of millions.

Every member of the House may, with or without petition, originate, bring forward, and propose to Congress any bill for the benefit of, or in any way concerning, his own immediate district, his State, or any State in the Union. His powers for such purpose are, and must be, coextensive with the jurisdiction of Congress. The power is incident to all legislative assemblies, having a general jurisdiction and the power of legislation. It is not only the right, but the duty, of a member, to watch over, and with vigilance to guard, protect, and promote, the interests of all parts of the country. And shall it be said that he has no right and power to propose laws for the District of Columbia, to do away wrongs and oppressions here, where his powers of legislation are more unlimited than in any other part of the Union? The idea that he cannot, seems to me preposterous. And if a member has such right, surely his mind may be enlightened, his attention awakened to corruption, crimes, or oppressions here, and his patriotism roused to action, by the petitions of his constituents, or of the people of any other portion of his country. In this District every member of Congress, and every citizen of the Republic, should feel a deep and lively interest. They all have a voice in selecting its rulers, they all contribute to defray its expenses, and they all have a deep concern in its honor and glory, and have a right to be heard in its legislative assembly, in all matters concerning the appropriation of money here, or the correction of abuses, oppressions, and tyranny. As the seat of their empire, under the superintending power of the general Government, they have a right to require that it shall be governed in accordance with our Declaration of Independence and the principles of free government, and that the despotism of Archangel and of Turkey should not prevail here.

But, sir, if it were necessary that the citizens of this District should petition, many of them have petitioned for the abolition of slavery and the slave trade in this District, and this fact may not be known to most of the members of this House. I hold in my hand a petition, taken from the files of this House, presented in the year 1828, signed by the judges of the circuit court of the District of Columbia, and more than 1,000 respectable citizens of the counties of Alexandria and Washington, and then owning a large proportion, and, I am credibly informed, more than a moiety of the property of this District. So that the abolition of slavery here would be in accordance with the feelings and wishes of a large and highly respectable portion of the citizens of the whole District.

Sir, the petitioners ask that slavery and the slave trade in and through the District of Columbia may be abolished, with their appalling train of evils. They enter into no details, and they prescribe no terms, no conditions. Those they very properly submit to the discretion and the wisdom of Congress. They ask that these petitions may be referred to a select committee. This request, I submit, is reasonable, and should be granted. The parliamentary usage of all free deliberative and legislative assemblies requires that the petition should be referred to a committee, a majority of whom should be favorable to the prayer of the petitioners. Similar petitions, for years past, have been referred to the Committee on the District of Columbia, and for the last ten or twelve years, I believe, a majority of the Committee on the District have been from the slave-holding States. I mean no reflection on the Speakers of the House, but mention it as a fact proper to be known by the people. Perhaps, as long as it was a slave-holding territory, it was proper in relation to the general business and interests of the District that a majority of the committee should be from the slave-holding States. But, sir, their early education, associations, habits, and interests, and a knowledge of human nature, must convince us that they could never

view petitions such as those now presented with a favorable eye, and consider them without that prejudice natural to and inseparable from the honorable, the worthy, and the very best men.

Sir, at the session before the last, at the last session, and at the present, similar petitions, from various parts of the Union, signed by many thousands of citizens, have been presented to this House and referred to the Committee on the District, and no report has been made thereon to this House.

I mention this as a fact only, and do not intend to cast any censure on the present or past committees of the House. They may have had good and sufficient reasons for the course they have pursued, unknown to me. But, sir, I differ with them entirely in opinion, as to the course they have pursued, and must frankly declare that, on a question of so much importance, of so great magnitude, I believe it would have been better for the majority of the committee to have made a report favorable or adverse to the prayer of the petitioners, and thus have enabled the minority to present a minority report. And thus would all the facts and circumstances connected with slavery and the slave trade in the District, and the views and reasons of the whole committee, have been published, and seen and read by the American people. But the petitions are not published—there is no report—and no light is shed on the dark subject of slavery and the slave trade.

A right "to petition the Government for a redress of grievances" is secured to the people. But, sir, of what use to the people is the right to petition, if their petitions are to be unheard, unread, and to sleep "the sleep of death," and their minds to be enlightened by no report, no facts, no arguments? Have Congress the power to abolish slavery and the slave trade in the District? It is believed they have. Of the three committees who have reported very briefly on the subject, one expressed no opinion, another admitted Congress had unlimited powers, and the other admitted that they had by the letter, but denied that they had by the scope, spirit, and meaning of the constitution, without the consent of the people of the District.

By the constitution, article one, section eight: "Congress to exercise exclusive legislation, in all cases whatsoever," over the District.

Could language give higher power, or greater authority? The power of Congress more unlimited than that of Legislatures of the several States! They are limited in many instances by the constitution of the United States. To the power of Congress over the District there is no limitation. It is undefined, unlimited, and absolute, or it has no foundation and no existence. Congress never did, it had no power, and never could have received and accepted, without a convention of the States, a cession from the States of Maryland and Virginia, abridging, in the least, such unlimited powers. Congress has, then, the same power over the subject in the District that the several State Legislatures have in the several States. Several of the State Legislatures have abolished slavery in their respective States. And the power, I believe, is universally conceded to every State Legislature to abolish slavery and the slave trade within its own territories. Congress must have such power over the District, or, whilst slavery may be abolished in every State in the Union, it must be perpetual here. We should then have a Republic, rotten at the core, boasting of its freedom and tolerating the most cruel and odious oppressions. But if the consent of the people of the District be necessary, the entire consent of the whole people must be obtained. The majority cannot act; the majority have no power, no will, and if they had, they have no legislative organ but Congress to express it. So that by this doctrine, whilst slavery may be abolished in the several States, it must still be perpetual here. For never, until human nature is entirely changed, or until the millennium, when enslaved man will be emancipated by a Power more than mortal, will all the citizens of this District unite in the abolition of slavery!

And are the measures proposed by the petitioners expedient? It is believed that they are. And here I would beg leave to notice some of the objections that have heretofore been made to their adoption. It has been said, by a former committee of this House, that "the question must, in the end, unless suffered to rest, be productive of serious mischief, if not danger, to the peace and harmony of the Union." Not so. Slavery here has no necessary connexion with slavery in the several States. It exists, so far as that is concerned, under separate Governments, and the action of one of these Governments, in relation to slavery, has no necessary connexion with the action of the others.

Again, it was said by the same committee, the question "creates a restlessness in the slave for emancipation, rendered incompatible with the existing state of the country. Humanity may sometimes fail of its object, and rivet tighter the chains it would loose, by injudiciously interposing its good offices, in cases where it belongs more properly to others to act."

Sir, the petitioners claim, and I claim, an equal right to act and to be heard with any citizen of the District or of the Republic. Strange, indeed! if we have only to give, give, and have not the right to petition "for a redress of grievances," wrongs and cruel oppression. Shall humanity be told, shall the hundreds of thousands who have petitioned be told that her and their efforts will only rivet tighter the chains of slavery in this District? No danger of insurrection can or will be feared in the District. The number of whites is near five to one of the slaves, and considerably more than twice that of the entire black population. The excess of the white population, the military, the marines, the arsenal, arms and ammunition, are a complete and entire security against any and all insurrections of the slaves in the District.

Again, it was said by the same committee, "it is not the District of Columbia alone that is interested, but a large portion of the United States, that must be affected by every movement of the kind, and particularly Maryland and Virginia," and that slavery ought not to be abolished here until abolished in those States.

I deny that the question has any necessary connexion whatever with the slave-holding States. The abolition of slavery here would be productive of no injury to the surrounding States. It has been abolished in one State without injury to an adjoining State. And to make the abolition of slavery in the District dependent upon its abolition in the States of Maryland and Virginia would prevent the general Government from selecting their own time for the performance of an act of justice, too long delayed, to a much-injured class of our fellow-beings. The will of the national Government, as well as the benevolent wishes and prayers of hundreds of thousands of humane petitioners, would be dependent on the legislative acts of two separate Governments. The petitioners disclaim all alliance between slavery here and slavery in the several States; and I hope that the citizens of the slave-holding States will not claim such alliance, and that they will not attempt to make slavery here dependent upon slavery there; and that they will not contend that an attempt to abolish slavery in this District is a meddling with slavery in the several States. Should they thus claim, and thus contend, ought not the eight millions of people inhabiting the free States to double their exertions for the abolition of slavery in this District? But, sir, I cannot believe they will claim such alliance.

Sir, I believe it is expedient to grant the prayer of the

petitioners, and to abolish slavery and the slave trade throughout the District. They are not warranted by the laws of nature, or of God, and are oppressive and unjust—and injustice can never be tolerated without crime, where the power exists to correct it. And it appears to me that no one can seriously doubt that Congress possess full and ample power. It will strengthen the District, by the introduction of a free population, and do much to protect it against all future invasion. The abolition of slavery will render the District more prosperous. Agriculture will flourish; its fields and plantations will be better cultivated and improved. Arts and manufactures will be increased, and industry and enterprise will be doubled. The black population will be rendered more serviceable than they now are; for in the same proportion that you degrade man you destroy his usefulness. Money would be more freely appropriated, and a better feeling towards the District would exist. Greater harmony would prevail throughout the Union. The public mind would be quieted and tranquillized. The power of Congress over slavery spent and ended, there would be no more petitions for the abolition of slavery—none, none, would ask Congress to interfere with slavery in the several States.

The prayer, then, of the petitioners is reasonable; in accordance with the nature of man, and founded on the principles of eternal justice. The time, the age, the progress of liberal principles throughout the world, seem to require of this Republic the abolition of slavery in the District of Columbia. The inquisitions of Spain and Portugal have been abolished, and slavery throughout the British dominions has ceased to exist. The abolition of slavery has kept pace with the march of republican principles in South America, and there, as sceptres have fallen from the hands of kings and tyrants, the shackles have fallen from enslaved men; and slavery has ceased to exist, and is unknown throughout the South American Republics. It is only known in Brazil, which is still a monarchy, and has never assumed a republican form of Government. And shall slavery be upheld and retained by this Government, boasting of its freedom and its republican principles? Our country spent hundreds of millions of dollars and lost tens of thousands of lives to secure our independence and freedom from the tyranny and oppression of Britain. And we uphold and support, at the seat of our Government, personal servitude, personal bondage, and cruel oppressions, harder to be endured by the sufferers for one day, than years, ay, than ages, of the oppressions of Britain, by our ancestors. And do not our professions, consistency, and the honor of our country, demand freedom from personal bondage in all places under the sole legislation of the national Government? If we refuse to grant it, shall we not be liable to be reproached in the following language of the illustrious Jefferson, when speaking of slavery and the struggle of our ancestors with England: "What a stupendous, what an incomprehensible machine is man, who can endure toil, famine, stripes, imprisonment, and death itself, in vindication of his own liberty, and the next be deaf to all those motives whose power supported him through his trial, and inflict on his fellowmen a bondage, one] hour of which is fraught with more misery than ages of that which he rose in rebellion to oppose."

Those whose early education, associations, habits, and interests, have familiarized them to slavery, surely cannot refuse to unite with those opposed to it from education, early habits of association, thinking, and acting, and, as they believe, from religion itself, to banish slavery, and all its real or supposed evils, from the District of Columbia. The common land, where all the legislators of this country meet to transact the business of a great and the only Republic, should be lovely, smiling with peace, and blessed with the especial presence of liberty and justice. No bondage, no stripes, no fetters, or chains, inflicted or fastened on man without crime; no tears and screams of the oppressed, no heart-broken lamentations, no wailings of despair for the lights of morality and religion extinguished; for hopes present and hopes future ruined; for all the delightful and holy associations and joys of domestic bliss, (for I consider the negro as man;) for all the ties of kindred, of blood, and of nature, torn asunder and dissolved for ever, should fatigue the eye or pain the ear of any legislator or officer of this Government, or of the citizen of this or of any other country, who makes a pilgrimage to this Mecca, this land of the faithful, this, as it should be, chosen residence of freedom, to render homage at the shrine of liberty.

Every man, in looking at this District, and this alone, must agree with me. To render this chosen land beloved by all, the pride and the glory of all, we must first render it lovely. Lovely it can never be to all, while slavery and the slave trade continue to tarnish its annals. Methinks I hear some one exclaim, the present is an inauspicious time; the country is not yet prepared for such a measure. How long shall the legislators of this country wait, before they spread the unalloyed blessings of an entire exemption from personal servitude over this District? For more than thirty years the citizens of the country have petitioned Congress to abolish slavery and the slave trade in this District. Grand juries of the District have presented the slave trade as a nuisance. Essays have been published in the newspapers of the District, recommending, and more than one thousand citizens of the District have petitioned for the abolition of slavery and the slave trade.

And again, I ask, how long shall Congress wait? How long! oh, how long! before a citizen of this only Republic, in view of the freedom of this District and emancipated man here, may with equal pride, equal justice, and with as much truth, burst forth in the elevated sentiments, uttered in the warm impassioned language and burning words of the Irish advocate and orator, when contemplating the freedom and exemption of England, a country governed by a crowned head and an hereditary peerage, whose tyranny and oppressions our ancestors could not endure, from personal servitude and negro bondage. How long! oh my God! how long, before an American citizen, before American law, in the genuine spirit of American freedom, may with truth proclaim to and of the stranger and sojourner here, to and of man, to every man in this District—"that the ground on which he treads is holy, and consecrated by the genius of emancipation. No matter in what language his doom may have been pronounced; no matter what complexion incompatible with freedom an Indian or an African sun may have burnt upon him; no matter in what disastrous battle his liberty may have been cloven down; no matter with what solemnities he may have been devoted on the altar of slavery, the first moment he touches the sacred soil," not, ah not of Britain, but of the District of Columbia, "the altar and the god sink together in the dust; his soul walks abroad in her own native majesty; his body swells beyond the measure of his chains that burst from around him, and he stands redeemed, regenerated, and disenthralled, by the genius of universal emancipation."

Mr. D. then moved a reference of the memorials to a select committee.

Mr. CHINN said that he did not rise to defend the course pursued by the present or any previous Committee of the District of Columbia, upon the subject of the memorial. He hoped that neither the present nor any previous committee required any such defence. Nor did he mean to disturb the deep sympathy or the tender

mercies of the gentleman from New York, still less of the eight hundred fair memorialists who have made the gentleman their champion. He only moved to lay the whole subject on the table, and upon that question he demanded the yeas and nays.

Mr. DENNY asked whether, if the motion prevailed, it would be in order to call up the memorials at any other time.

The SPEAKER said it would be in order to take them up whenever the House pleased.

The question being taken, it was decided in the affirmative, as follows:

YEAS—Messrs. John J. Allen, Chilton Allan, William Allen, Archer, Ashley, Bouldin, Bunch, Bynum, Cage, Cambreleng, Campbell, Carmichael, Carr, Chaney, Chilton, Chinn, Claiborne, Clay, Clayton, Clowney, Coffee, Cramer, Crockett, Davis, Davenport, Day, Deberry, Dickerson, Dickinson, Dunlap, Felder, Ferris, Forester, Foster, William K. Fuller, Fulton, Gamble, Garland, Gholson, Gillet, Gilmer, Gordon, Gorham, Graham, Grayson, Griffin, J. Hall, T. H. Hall, Halsey, Hamer, Hannegan, Hardin, Hathaway, Hawkins, Heath, Howell, Huntington, Inge, Ebenezer Jackson, Jarvis, R. M. Johnson, H. Johnson, Kinnard, Lane, Lansing, Lea, Lewis, Love, Loyall, Lucas, Lyon, Abijah Mann, Marshall, Mardis, May, McComas, McIntire, McKay, McKim, McVean, Mercer, Henry Mitchell, Robert Mitchell, Murphy, Parks, Patterson, Peyton, Pickens, Pierce, Pierson, Pinckney, Plummer, Polk, Pope, Rencher, Reynolds, Robertson, Schley, Shepard, Smith, Spangler, Speight, Standefer, Steele, Wm. P. Taylor, Philemon Thomas, Tompkins, Turner, Turrill, Vanderpoel, Van Houten, Watmough, White, Wilde, Williams, Wilson, Wise—117.

NAYS—Messrs. John Quincy Adams, Heman Allen, Banks, Barber, Bates, Baylies, Bell, Binney, Bockee, Briggs, Brown, Burd, Burges, Burns, Casey, Chambers, William Clark, Coulter, Crane, Darlington, Denny, Dickson, Evans, Edward Everett, Fillmore, Fowler, Philo C. Fuller, Galbraith, Grennell, Hard, J. M. Harper, James Harper, Harrison, Hazeltine, Hiester, Hubbard, William Jackson, Benjamin Jones, Kilgore, Laporte, Lay, Thomas Lee, Lincoln, Joel K. Mann, Martindale, Moses Mason, McCarty, McKennan, McLene, Miller, Milligan, Miner, Morgan, Osgood, Parker, D. J. Pearce, Phillips, Potts, Ramsay, Reed, Schenck, Shinn, Slade, Sloane, Stewart, W. Taylor, Thomson, Trumbull, Tweedy, Vance, Vinton, Wagener, Wardwell, Webster, Whallon, F. Whittlesey, Young—77.

IMPROVEMENT OF THE MONONGAHELA.

Mr. DENNY presented a memorial from a large number of delegates representing five counties and many towns of Pennsylvania, extending along the Monongahela river, from the head of the Ohio to the Virginia State line, asking for an appropriation for the improvement of the Monongahela river, from Pittsburg to the national road at Brownsville, according to the plan suggested by Mr. Howard; which he moved to have referred to the Committee on Roads and Canals, and that it be printed, with the accompanying documents.

Mr. STEWART suggested to his colleague [Mr. DENNY] the propriety of giving this memorial a different direction. In 1832 an appropriation was made for this object, under which a survey, plan, and estimate, had been made by direction of the President. At the last session, this report and estimate were referred to the Committee on Roads and Canals, and he had been authorized by that committee to report a bill making an appropriation in exact conformity with the prayer of the memorialists. This bill the gentleman would find on the orders of the day, and which he hoped would be reached before the close of the session, and receive the favorable consideration of the House, to which he conceived it was so eminently entitled. He therefore suggested the reference of the memorial to the Committee of the Whole House to which this bill had been referred.

Mr. DENNY acquiesced in this suggestion, and the memorial was referred accordingly.

INDIAN RESERVATIONS.

The following resolution, heretofore offered by Mr. MCCARTY:

Resolved, That the President of the United States be requested to transmit to this House copies of all letters and correspondence of all Indian agents and sub-agents, and other persons connected with the Indian department, now in the executive or War Departments, or in the office of the Commissioner of the General Land Office, connected with or relative to the survey, location, sale, and transfer of all Indian reserves of land, since the year 1825, up to this time; and, also, all the orders and communications from the Executive of the United States, through the War Department, or General Land Office, or otherwise, in reference to said surveys, locations, sales, and transfers of Indian reserves; together with maps and plats of said surveys, and of the tracts approved and confirmed by the President under said transfers and sales, and what remains unappropriated that have been reported and submitted for his approval, together with the evidence of title:

To which Mr. PLUMMER moved an amendment, to restrict the call for information to "that not already communicated to the Senate under resolutions of that body adopted at the last session:"

And which having been referred to the Committee on Indian Affairs—

Mr. LOVE, from that committee, reported the same, with an amendment, as follows:

Strike out, after the word "correspondence," the words "of all Indian agents, sub-agents, and other persons connected with the Indian department," and insert, after the words "General Land Office," the words "of all Indian agents, sub-agents, and other persons," and insert, after the words "reserves of lands," the words "east of the Mississippi river:"

Then came up for consideration.

Mr. McCARTY rose and said: Mr. Speaker, when I closed my remarks upon this subject, more than a week ago, upon the motion of the gentleman from Kentucky, [Mr. LOVE,] to refer this subject to the Committee on Indian Affairs, I had no intention of again troubling the House with any further remarks of mine. Nor, sir, important as I consider the subject to the country, should I have done so, but for the reported remarks of one of my colleagues, [Mr. LANE,] of the debate which took place on that day, and the subsequent debate upon this subject. Mr. Speaker, when I introduced the resolution under consideration, I carefully and studiously avoided locating charges of fraud in any district, or in any particular section of the country, or upon any individual officer; nor in any remark made by me on this floor, during the time I occupied the attention of the House upon this subject, have I adverted or made any allusion whatever to any specific place, or upon any individual, of the frauds contemplated to be laid open by this resolution. It is not my practice, sir, to stand here and charge individuals, elsewhere, with any act dishonorable to themselves or to the country, where they would be unable to defend themselves. The object of the resolution was, as expressed on its face, simply for the purpose of bringing forward—believing, as I do, that frauds exist—such evidence as would lead to an investigation into the conduct of public agents which may be thought prejudicial to the public interest, for the purpose of enabling the Executive and the proper departments to correct those

fraudulent practices, and of exposing the perpetrators. But, notwithstanding my repeated disclaimers against any thing like locating charges in any section of the country, my colleague [Mr. Lane] has been kind enough, in his reported remarks in the Globe, to insinuate the charges upon myself and an honorable colleague [Mr. Ewing] of having located the frauds referred to within the State of Indiana.

Sir, it is needless for me to reiterate this disclaimer here, for every gentleman upon this floor, who participated in that discussion, must well remember it; but it is due to myself that I should expose this misrepresentation, which was intended to operate more elsewhere than here. The gentleman [Mr. Lane] after having made his first remarks, in which he goes on to state that he objected to the resolution because I had not been sufficiently specific, and for that reason he could not vote for it, was so fully satisfied that I had located charges no where, that he called upon me to put my finger upon the agent who had acted fraudulently. And this was also all the ground of objection taken by the gentlemen who opposed the resolution: these were the remarks, I believe, of my colleague, in his first speech upon the subject. In his second remarks, he changes his ground, and instead of opposing the adoption of the resolution as before, he says, in substance, "that he feels it incumbent upon him to redeem the people of the State of Indiana from the charges imputed to them by my colleague and myself;" "as they had, if fraud had been committed, located it there." His corrected remarks read thus: "and that, inasmuch as the resolution originated with the gentleman from his own State, and inasmuch as two of his honorable colleagues [Messrs. Ewing and McCarty] had expressed a belief that frauds had been perpetrated in the transfer of Indian reservations, it might be supposed that some of those frauds had taken place in Indiana." Here the gentleman has travelled out of his way, and out of the subject under consideration, to seek an excuse to pass a eulogy upon the citizens of Indiana, entirely gratuitous and uncalled for by the occasion, in reply to charges that not only were never made, but upon which nothing had been said. The gentleman has endeavored to show that he had corrected this error, by the publication of a letter in the Globe. But mark! He professes to have written it on Saturday, but instead of appearing in Monday's paper, it did not appear till Tuesday, although the gentleman assured the House that he took the earliest occasion to correct the error, but that his letter did not reach the office until late on Sunday night, and after the form of the paper had been made up.

Now, sir, the resolution came from myself, and, in my remarks on its introduction, I distinctly stated that I was personally acquainted with the agent in Indiana, and disavowed any intention of imputing wrong to that individual, whom I believe to be incapable of perpetrating a fraud. Why, then, was the State of Indiana, and the agents there, named by my colleague? Why, he says, "inasmuch as the resolution orginated with a gentleman from his own State." Sir, no such inference can be drawn, either from any remarks that I made, or from the resolution itself. The resolution was introduced by me for the purpose of getting at the subject generally. It was known to the gentleman, that for two years I have been connected with the Committee on Indian Affairs; and that my investigations on this subject were general. How, then, could he come to the conclusion he states, in the total absence of any thing said or done on my part to warrant such an inference? He could not.

But, even admitting that I had been disposed to locate these frauds in the State of Indiana, would it have been considered disreputable to a whole people, because a few dishonest persons may be found among them? Would that have offered a sufficient ground for a gentleman to misrepresent his colleagues, for the purpose of passing a hypocritical eulogy, uncalled for and out of place, and entirely gratuitous on his part? No one thinks higher of my fellow-citizens of Indiana than I do; but would any gentleman believe me if I were to assert it as my opinion that there was not a man among them capable of committing fraud? Was it an imputation upon the honest portion of any community to charge some one or two of them with the perpetration of fraud, had I even done so, which is not true? Even the records of the gentleman's own county, which had as honest men as any in the world, would show that things had been done there not altogether consistent with honesty and fair dealing. But where was there a county in this Union, whose records would not show that dishonest and corrupt men had lived there? And yet is this an imputation upon the inhabitants of the county! Does it argue against the integrity and purity of the community generally? Certainly not. My motive, Mr. Speaker, was a general one, in reference to the general interest of the country. Sir, were I disposed, I might instance a circumstance in my own State, not of fraud, sir, but of deep interest to those concerned, as well as the State, which, of itself, I think, is of sufficient interest and importance to warrant the call contemplated by this resolution. It is this: a good many reserves were made by the treaty of 1826, in Indiana, to the minor Indian children of a particular school. Those children have mostly gone from the country, and it is believed their lands, or many of them, have been transferred. If so, the titles may be questioned, and innocent purchasers may suffer; and it is important these facts should be known.

I will again, sir, recur to the speech of my colleague, [Mr. Lane,] subsequently made, in reference to his feelings upon this subject. He says "he would ever be ready to co-operate with them (his colleagues) in any thing and every thing they may undertake, calculated to promote the interests of their constituents, the interest and prosperity of our State, and the interest and prosperity of the Union."

Now, sir, these sentiments are certainly worthy of a Representative upon this floor; but take them in connexion with the following, from another speech, made by the same gentleman. As I design to correct public opinion upon this matter, I deem it due to myself, from the attitude in which I have been placed, that I should quote it:

"Mr. Lane said he regretted he could not, in justice to himself, accept the kind aid of his good-feeling colleague, [Mr. McCarty,] in the motion he had made to reconsider the vote of yesterday, rejecting the resolution he had the honor of presenting to the House for adoption. That it was his intention to present it anew to the House, locating its commencement." "Now, he could have no such motive, for its commencement had been designated by the resolution itself."

Now, Mr. Speaker, the resolution was offered by the gentleman himself, referring, as I thought, to a subject already before one of the standing committees of the House, and it was for that reason alone I made the suggestion to it. As soon, however, as I discovered the mistake, I myself moved its reconsideration, and the gentleman, although it was his own resolution, his own proposition, objected to its reconsideration, under the pretence that he would "present it anew to the House, locating its commencement." I have quoted this for the purpose of connecting these subjects, and to show that the opposition to the reconsideration of the gentleman's own resolution, and his published remarks on that subject, were intended for political effect at home, and not for the information of the House, because they

were made out of this House, and written by the gentleman himself.

Mr. Speaker, I have upon all occasions carefully avoided any collision with any gentleman upon this floor. It is both unpleasant and disagreeable, and it is especially so with a colleague. But when I see my remarks and my motives misrepresented, and those misrepresentations sent abroad throughout the country, to produce an effect against me at home, I could not, in justice to myself and those I represent, permit them to pass unnoticed. Sir, there are a species of animals in our forests, with whom, notwithstanding their weakness and abject meanness of spirit, the lion himself would shun a controversy. There are, Mr. Speaker, many men who owe their impunity from rebuke and chastisement to their resemblance to these quadrupeds. I hope the House will pardon me for thus trespassing upon its patience, by introducing matters not altogether relevant to the subject under consideration.

I know, sir, the gentleman may suppose that the length of time that has elapsed since his remarks have gone forth, would have enabled them to produce the desired effect; but this being the first occasion that has offered to make the correction, I have thought it due to myself to embrace it. I have no objection that gentlemen should take any course they think proper to write out their own speeches, when it is not done at the expense of truth and to the detriment of others.

The gentleman, the other day, in reply to my colleague, [Mr. EWING,] after he had been told, in emphatic terms, that his published remarks were not true; that he had written them himself; and that the reporter, therefore, was not chargeable with the misrepresentation, boastingly tells the House, that whoever contradicts his assertion, does it at his peril. Why, sir, this reminds me of a very troublesome fellow in my neighborhood, who had offended a very good citizen, and, refusing to make the necessary redress, the gentleman took upon himself the responsibility of redressing his own wrong by making a very unpleasant application to the young man's shoulders. After giving him about thirty, he let him pass. The fellow immediately applied to the clerk for a writ, who asked him why he did not fight back. "Why," said the fellow, "I had determined if he had struck another lick, I would have given him hell!"

Mr. Speaker, when I introduced the subject here, I did it in the character of a representative of the people. I consulted no personal feeling, nor am I responsible to any but my constituents, out of this House; but, notwithstanding this, I shall never shrink from any responsibility that may grow out of any thing that I may say here. Nor, sir, have I introduced it for the purpose of ferreting out and making charges against the administration. No, sir, I am an older soldier in the support of the administration than that gentleman, and have defended it from the earliest period, and expect to do so as long as I have the honor of a seat here, when I think its measures are correct. But I claim the right of differing in opinion upon all subjects, when my duty to my constituents shall demand it.

There is no intention of bringing any charge upon the Executive by this resolution. On the contrary, its object is to enable the Executive to do justice to the country. I have brought it forward, sir, after due deliberation and reflection, and I trust it will be adopted, so that the country may see where frauds have been perpetrated, and who have been guilty of them, and that those who have been unjustly charged may have it in their power to exculpate themselves. I again repeat, sir, that so far from locating the frauds in Indiana, or intending to locate them there, I located them nowhere; I made no charge against the agent in Indiana, (whom I believe to be as honest and honorable a man as lives,) nor against any other individual whatsoever. I have reason to believe that fraud has been perpetrated somewhere, and I wish it known. In conclusion, sir, let me assure my honorable colleague, that I will never suffer misrepresentations of myself to pass here unheeded, nor, so long as I shall be honored with a seat on this floor, permit them to go without exposing them to public view. I have thus, Mr. Speaker, said all I intended on this subject, and beg to express my acknowledgments to the House for the indulgence afforded me. My main object was to correct this error, and to do justice to myself by placing the whole matter fairly before the public.

Mr. EWING then rose, but

Mr. WATMOUGH called for the orders of the day; which motion was not sustained: Ayes 55, noes not counted.

Mr. EWING, of Indiana, said he did not rise to protract the debate upon this resolution, and he should not now add one word after the remarks of his respected colleague [Mr. MCCARTY] who had just taken his seat, were it not that the correction of false and injurious matter made by the member on his right, [Mr. LANE,] was little less offensive than his original publication. In his effort to avert the force of the correction I felt myself called upon to apply, he seemed to take offence at the language I had used, when it is known to the House that I used no language but what his injurious misrepresentation justly merited. I am in the habit of calling things by their right names, and so are the upright people I represent. I call a spade a spade, when I allude to that implement, and in repelling the charge that I had implicated the people of Indiana in any participation of fraud, or that the resolution was calculated to do so, or that it justified or required his bold eulogium, I used only such terms as were necessary to expose the falsehood.

The member [Mr. LANE] commenced his remarks by stating that he would not "bandy epithets," but that he would state the truth, and that contradiction would be at "peril." Now, I bandy no "epithets;" I establish the fact that he did not state the truth; and of his "perils," I am, here and elsewhere, utterly regardless. But if his "perils" are the garbled and untrue reports sent through the medium of the Globe, to injure faithful Representatives at home, I confess I cannot express such indifference. Why, sir, the report of my late remarks, in that partisan print, were so garbled and shaped as to give covert point to his misrepresentations. I acknowledge, sir, there is art manifested in this course; the same sort of art which he displayed in his uncalled-for allusion to the people of Indiana. The people require services, not flattery; and in his case it was dealt out upon the unfounded assumption that the resolution of my colleague [Mr. MCCARTY] had cast a stigma on them; when in fact the people of Massachusetts, and every other State, were as much implicated as they were; for the resolution is only calculated to bring necessary information to all.

But I suppose the "peril" threatened by the member [Mr. LANE] had reference to the new version of his remarks, and not to those that he reported for the Globe, which were the original cause of complaint. Now, how does the matter stand, the threatened peril notwithstanding? I charged him with having written for the Globe a bold eulogy, founded on a false and injurious statement, calculated to do great injustice to myself and my colleague on my right, [Mr. MCCARTY,] and to deceive our constituents. I further charged him with making such a correction of it as might still gain for him unmerited credit for defending them from the false and injurious statement which originated in his own imagination, and appeared in the Globe. The House has witnessed his

pretext, inuendoes, and subterfuge, in reply to these exposures, and heard his declaration, that what he then said was "true and not false, and that the contradicter would himself assert a falsehood." This, too, accompanied by an intimation that I had sought protection under the dome and within the walls and drapery of this House, for the exposure of the impositions. He [Mr. Lane] did not deny that he had written the false statement for the Globe; but he may have wished to convey the idea that I could be intimidated from stating facts. Now, I would have that member to understand that such an idea is as unfounded as the falsehoods I have already exposed. I claim no protection from the walls, dome, or drapery. It is not these, but my constituents, that I regard; and I have not, nor shall I ever make any remarks here, which I shall shrink from reiterating elsewhere. The intimation was given as a disclaimer on his part, that he would seek no such protection. He must now know that I hold myself personally responsible, and he may pursue what course he chooses.

As the able exposition of my respected colleague [Mr. McCarty] has placed the matter at issue in its true light, I would say no more, were it not for the degrading perversions of my former remarks, and the declaration of what the member [Mr. Lane] "would never do" which accompanied his perversions. He labored to make the erroneous impression that I took offence at his unnecessary eulogy on my constituents, instead of the false ground on which he based it. He knew I had taken offence only at this attempt to show that his pretended defence of them was required by my course; and he knew, and this House knew, he was attempting to do the very thing he disclaimed. Thank God, sir, I and that member are known to the people of Indiana; and if he does not know me better than his course indicates, I can inform him that I have long known him. This, sir, is no place to play the braggart, and I hope he will hereafter seek some place more suitable. If, as he said, he would indulge in no defamation, why did he not frankly and effectually correct his error in proper time, and why did he labor to avert the force of my correction? I wish only that the constituents of each shall know the facts of this case, as the House knows them; and that each of us may be judged by the tendency of our acts. The resolution I hope will be adopted.

Mr. LANE said his colleagues [Messrs. McCarty and Ewing] were upon a cold trail; that he deemed it a duty to the House and himself to say he had not, in the House, on a former occasion, said his colleagues had located the frauds in Indiana—that as soon as he saw the report of his remarks in the Globe, he had detected the error, and sent a note to the office correcting it. That his remarks had, at the request of the reporter, been written out by himself, as is usual in the House. That, in setting the type, the compositor omitted the following words: "which would seem to locate them." Had this line not been omitted, all this difficulty would have been avoided; but as it is, the assault on the part of my colleagues was uncalled for, and unprovoked on my part, inasmuch as the correction was made before the assault.

Mr. L. said it was extremely unpleasant, repugnant to all his feelings, to be called upon to make even a good-natured reply to such language as had been thrown upon the House. It has been said, with wisdom, there is a time for all things. A poor thing said in, is better than a good one out, of place. The one is the manifestation of a weak mind—the other of a depraved taste.

Sir, we are in the house of mourning. Some for the loss of a personal and esteemed friend—all for the loss of a valuable member. That tongue, lately so eloquent, is silent. Those eyes so bright, are closed in death. Those limbs so active, and face so comely, in the tomb. I could not have found it in my heart to have said aught to have disturbed the repose of the mourner—the solemn feast of feeling—the Sabbath of the mind. Nor would I have forgotten the late tragical attempt in this Capitol, which, had it been acted out, as did Othello his part, this Capitol, this nation, would have been shaken, as by some mighty earthquake, from its centre to its circumference.

Thus situated, had I ever so much cause for revenge, my bow and my arrow in my hand, my eye on the victim, the very thought of these recent events to have flitted across my mind—a look at this badge of mourning on my arm, as a manifestation of regard for departed worth, and my bow and my arrow should have fallen. With my eyes on Heaven, I would have made one effort to rise, in all the pride and glory of man, superior to the brutal passion.

Sir, (said Mr. L.,) to the people of Indiana it would be a subject of curiosity how this difficulty should have arisen between myself and colleagues, [Messrs. McCarty and Ewing,] in the consideration of a resolution in the adoption of which we agree. They will see at once it has not grown out of any thing seen or heard in this debate; that the cause lies deeper; not in the virtue, but in the depravity of the human heart. Man, sir, may dissemble for a while—may deceive—but, sooner or later, like the pent up heated waters, the least enviable qualities will burst forth. The politician who abandons his first love, his principles, and betrays his trust, looks with envy upon the faithful. Sir, there is a manner, a language, a courtesy, a delicacy, and sweetness of expression, in the heat of even angry debate, that characterizes the gentleman and the scholar—a language, a look, that distinguishes him from the vulgar ruffian. To look at such a man is to know him a gentleman, elevated in mind, pure in thought, sensitive in feeling, alive to his honor—always respecting the feelings and regarding the honor of others. Sir, pursue the other through all the walks and shades of life, to his own or his neighbor's fireside, to the gay circle, or to a more elevated station, and he is still no gentleman, but a ruffian, without feeling or honor, regardless of both in others. To see such a man is to know his ruling passions, his weapons of warfare—envy, revenge, detraction, calumny. Sir, it is to be presumed, neither of my honorable colleagues [Messrs. McCarty and Ewing] will claim this picture or desire the garment, not being intended for them. If, however, contrary to my wishes and intentions, a claim should be asserted, I assure the House and my honorable colleagues, [Messrs. McCarty and Ewing,] that nothing shall be charged for the cutting or the making.

Mr. Speaker, I was elected by a highly respectable district, as their immediate representative, to act in harmonious concert with my honorable colleagues, in promoting the best interests of the people of Indiana, to maintain their interests, their honor, the union, the dignity of this House, and not to tarnish the one or neglect the other by entering into a private quarrel with them. Sir, there is a point in the scale of human degradation, to notice or look at, which no honorable man will descend. There is a language and men, (not, surely, in this House,) to notice either, is disgrace—to disregard, a virtue.

Mr. Speaker, I feel myself called upon to say one word in relation to myself. During the last, and so far of the present session, I have been at my post; not a day or an hour absent. I have voted on all occasions; have been the watchful, and, to the extent of my humble abilities, the faithful sentinel over the rights and the honor of the district and State I represent. Unlike my honorable colleague at my right, [Mr. McCarty,] the Clerk of this House has not dashed his pen across my name, as absent, in the taking the ayes and noes, eighty-and-two times, and unlike my colleague on the left, [Mr. Ewing,] forty-and-seven times.

Sir, my sin seems to consist chiefly in the fact that I took occasion to say of the people of Indiana, that they were as pure, honest, and high-minded, as the people of any other State. In these general terms of commendation, the constituents of my colleagues [Messrs. McCARTY and EWING,] were included. They claim this special privilege themselves, that when they want praise, or their interests require a defender, that their constituents look to them. Sir, on the eighty-two occasions when my colleague [Mr. McCARTY] was absent, a part of which time he was in Baltimore and Philadelphia, and of my other colleague, [Mr. EWING,] on forty-seven occasions, what would have been the condition of their constituents, had their honor or their interest required an advocate? Sir, I shall never shrink from stepping forward as the advocate of any and every portion of Indiana, when, in my judgment, their interests or their honor shall require it at my hands. Sir, this is a most useless and unpleasant discussion--a wanton waste of the time of the House and the money of the people, and all this occasioned by my colleagues, by this wanton and uncalled-for assault. How much better, how much more honorable, if my colleagues had vied with me in serving our common constituents, to force through this House, by all proper means, the various local and general bills in which they feel so much interest--to which the people of the State look with so much anxiety. In this laudable strife, I will most cheerfully engage; I have no other object or motive. All my aspirations are for the public good—the interest and honor of my constituents.

I ask pardon of the House for having detained them so long, assuring the House and my colleagues, that on no further occasion I shall consider it a duty to notice them, other than in manly and honorable debate, in promoting the interest of my constituents and the people of the State.

Mr. BOON, of Indiana, adverting to the unpleasant tone and the uselessness of this discussion, moved the previous question, (to cut off the debate,) but the House refused to sustain the call.

Mr. McCARTY said, this controversy, Mr. Speaker, is unpleasant, but it is not of my seeking. It has been forced upon me, and although uninteresting to this House, I must be permitted to say one word in reply to the gentleman's [Mr. LANE's] remarks, in reference to the non-appearance of my name upon the list of yeas and nays, upon several occasions. Sir, I had been repeatedly informed, during the last and present sessions of Congress, by several honorable members of this House, as well as several of its officers, that the gentleman [Mr. LANE] was in the habit of examining the Clerk's books, and taking extracts from them to show the absence of his colleagues, when their names were called: and I have, Mr. Speaker, known that he had written on to my district, and published this fact, accompanied with other remarks, regardless of truth, disreputable, and unbecoming the station he fills.

But I could not believe it possible that the gentleman would have had the face, hard and unblushing as I know it is, to have got up in this House, before the assembled Representatives of the nation, and voluntarily given testimony to his own depravity. Sir, has there ever before been an instance of a member of Congress, no matter by what accident he may have got here, who has had so little regard for himself as to have descended to so low and disgraceful a practice? What! a member of Congress, representing a high-minded, intelligent, and patriotic people, in the constant habit of taking from the Clerk's papers means by which to charge and slander his colleagues at home! Not only so, sir, but that he should openly acknowledge and avow it here, in a speech to go forth to the country. Sir, when I shall have so far lost sight of all principles of propriety, courtesy, and honorable deportment towards my colleagues and this House, with assumptions of saint-like sanctity, with the pretensions of regard which the gentleman, in his speech the other day, professed for his colleagues, and, at the same time, make such disclosures of my own conduct as the gentleman has of himself upon this occasion, I should feel myself no longer worthy the trust confided to me.

I have known for a long time the gentleman had indulged in this habit, but, for the honor of the State, and the feelings of those he represents, I forbore to speak of it. I preferred to risk the injury he intended to inflict upon me, by this course of conduct, rather than it should be generally known that one who could or would descend to such a practice held a seat in this hall. But it can be concealed no longer; he has himself made the disclosure. Sir, I will pursue this subject no further. It is painful to speak of it. I will leave the gentleman to enjoy all the honor and glory he may have fancied himself to have acquired by publishing his own infamy; and I will not, sir, notice again any thing he may say. One word in reference to myself, upon the subject of my absence from my seat on some occasions, upon the call of the yeas and nays. You know, Mr. Speaker, that members are necessarily and unavoidably many times absent from their seats, in the discharge of their various duties in the committee rooms, and at the public offices, in addition to their absence sometimes from sickness. I know this is not a matter for discussion here; that it is a subject between me and my constituents, and to whose judgment and decision I will most cheerfully submit it: and with no fearful apprehensions of the result will I return among them and submit the journals of this House, that they may know how often I have been absent from my seat, during the four years they have honored me with their confidence. I have not examined them, nor will I. My constituents have not yet complained of any neglect of attention to their interest; and when they do, permit me to tell the gentleman he is the last man on the floor of this House whom they would call upon, either for aid or information. Sir, many of my constituents know that man; yes, and thank Heaven many who do not know him personally, know his character, and what estimate to put upon it.

[Mr. LANE rejoined in some remarks, which are believed to be substantially included in the above report of his first remarks.]

Mr. EWING said: Mr. Speaker, "How use doth bind a habit in a man." The member [Mr. LANE] has strongly exemplified the truth of this remark. Contradicting, yet persisting in the truth of all he has said. After disclaiming, on a former occasion, any wish to detract from his colleague's standing, avowing himself unworthy of a seat on this floor when he should be capable of doing so, the House now sees that he still resorts to false and injurious charges, direct and implied, to accomplish the purpose of his original falsehood, which my colleague [Mr. McCARTY] and myself have distinctly exposed. His disposition and habits are thus clearly manifested in his course, and I disdain to animadvert further. If the charge that I have been absent during the last and present sessions forty times, when they ayes and noes were called, was intended to impress the people of Indiana that I have neglected the business of the State or my immediate constituents, my reply is, that the charge is false. I may, for aught I know, have been absent as often as he has stated when the ayes and noes were called upon collateral questions; but if he intended to intimate that I have been in Baltimore or Philadelphia, while the House was in session—[Here Mr. LANE said he had not asserted any such thing.] Mr. EWING resumed: then let that pass. The member [Mr. LANE] omitted to mention the number of times his other colleagues had been absent; but for myself, I have so much

office business to transact, that the number of missing votes is fewer than I had apprehended. But with one exception, last session, in relation to the Bank of the United States, not conceived to be properly before the House, I have never avoided a vote nor lost one by neglect.

The melancholy circumstances alluded to by the member [Mr. LANE] as a pretext for much he had said, I will not notice; but his implied censure of my course I can only regard with contempt. On this, as on all other occasions, I have done what duty to myself and constituents required; and, holding myself always ready to reciprocate kindness, I am equally prepared to resent imposition, insult, and injury. I will only add that the charge of envying the member is too ridiculous to require any other correction than flat denial. I can neither envy nor imitate that member in his principles, pretensions, disposition, or character. He has said that it is "a wanton waste of time" to correct all his misrepresentations. I now join in that opinion, and abstain from adverting to many, which, I trust, the people at home are sufficiently advised to appreciate as they deserve. Of this number I pass over his preposterous pretension to extraordinary services in this House, and his remark upon politicians who "abandon their first love." All such imposition can be detected without notice here, and I think it unnecessary to say more.

Mr. BOON, adverting to the unpleasant tone, and the uselessness of the discussion, moved the previous question.

But the House refused to second him; and the debate was further continued by Messrs. McCARTY and LANE, in a style still more personal, when

Mr. CROCKETT inquired whether it was in order for gentlemen to be electioneering on that floor?

The CHAIR interposed.

Mr. EWING asked leave to rejoin. There was great sensation in the House, but he obtained leave for a few moments, and explained.

The personal discussion was then ended; when

Mr. PLUMMER moved to amend the resolution by striking out all that part of it which requires a return of maps and plats of land accompanying the several Indian treaties, but he withdrew it at the request of

Mr. CLAY, of Alabama, who offered another as a substitute for the resolution, proposing an investigation by a select committee of the House, as follows:

"Strike out all after the word 'resolved,' and insert: that a select committee be appointed to examine the records, correspondence, and plats of survey relating to, or in any manner connected with, the location, sale, or transfer of any, or all Indian reservations, which may be found in the General Land Office, or Department of War, and ascertain whether there is probable cause to impute fraud to any agent or officer of the Government, concerned in such location, sale, or transfer of reservations; and if such probable cause exist in the opinion of said committee, that they report so much of said records, correspondence, and plats of survey, as may have any connexion with any such supposed fraudulent transaction."

The question was then put on a pending amendment to the resolution as reported from the Committee on Indian Affairs, as follows: Add thereto the following: "not already communicated to the Senate under resolutions of that body adopted at the last session," and agreed to.

The question then recurring on Mr. CLAY's motion, he briefly supported its adoption.

Mr. LOVE opposed it, insisting that it must amount, in practice, to a virtual denial of the investigation; and he demanded the yeas and nays on the question; and they were ordered by the House.

In answer to an inquiry of Mr. BOON,

Mr. LOVE stated why he had confined his amendment to the country east of the Mississippi, viz: because there were no personal reservations on the west side of the river.

Mr. ASHLEY stated that there were a few; but he was entirely willing the inquiry should be extended so as to cover them. He was convinced all was fair in that quarter.

The question being taken, it was decided as follows: Yeas 23, nays 172.

So the amendment was rejected.

Mr. PLUMMER now renewed his amendment, going to dispense with a call for maps and plats.

Mr. GRENNELL opposed it with much earnestness. He expressed his hope that, as the resolution had now been reduced to a succinct and practicable form, and the House, after mature deliberation, were ready to act upon it, they would not defeat all they had done by adopting an amendment which went to render the inquiry almost wholly nugatory. These maps and plats were the most important of all the documents embraced in the call. Information had been laid before the committee to which he belonged, going to show that reservations had been located in a manner wholly irrespective of the lines and boundaries established by the public surveys, in irregular shapes, so as to cover the best lands and exclude the residue. He trusted, if the House meant in earnest to pursue the inquiry, they would insist upon these maps, as without them the other information would be, in a great degree, unintelligible, if not wholly useless.

As to the expense, of the labor of clerks and of printing, he felt comparatively indifferent. In a question of such a character he trusted this would not be suffered to operate as any objection. Not only was the detection of these frauds important to the interests of the United States, by recovering valuable lands which belonged to the public, but it was important, in order that the Indians might not be employed by interested men as instruments for acquiring lands to which they were not entitled. It was due to the Indians that their interests should be protected. Supposing it should turn out, as the gentleman from Mississippi [Mr. PLUMMER] had suggested, that the House could not get these maps till next session, in the meanwhile it would become known to all concerned that a rigid scrutiny had been instituted, and those who contemplated perpetrating further frauds would be deterred from attempting it, while means would be in progress for recovering land held under fraudulent titles. The maps need not go into minute particulars; one general map relating to each treaty would be sufficient.

Mr. PLUMMER said his mind was not convinced, but he would yield to general opinion, and withdraw his amendment.

The question being then put, the resolution of Mr. McCARTY was adopted unanimously.

After which the House adjourned.

TUESDAY, FEB. 3.

CALL OF THE HOUSE.

Mr. GRENNELL, as soon as the journal had been read, rose and remarked that there was evidently nothing like a quorum in the House, and expressed his regret that the journal had been read in the presence of so small a number of members, as he considered the reading of the journal an important part of the proceedings of the House. He moved a call of the House; which was agreed to.

The call was proceeded in for a short time, when, on motion of Mr. GRENNELL, it was suspended.

DUTY ON FOREIGN COAL.

After transacting the usual morning business,

Mr. FERRIS, by consent, offered the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the duty on foreign coal.

Mr. F. said that, in offering this resolution, he requested the indulgence of the House, while he endeavored to explain the reasons which induced him to solicit this inquiry, and to obviate some of the objections that he anticipated would be made to it.

During the short period I have had the honor of a seat on this floor, I have observed that all resolutions of this nature have been met with one general objection, deemed by many an insuperable one, which is, that any alteration of the tariff of duties on imports is considered as an interference with the act of March the 2d, 1833, commonly called the compromise bill; and that this bill is regarded by many as a compact which it would be a violation of good faith to alter, amend, modify, or repeal.

I respect as highly as any one the motives in which this bill originated, and duly appreciate the great objects and blessings it was intended to accomplish and secure; and while I would not, on the ground of expediency, disturb its leading principles, or agitate questions that have shaken the country to its very foundations, I will not shrink from the responsibility of seeking relief from any particular oppression, occasioned by the present tariff of duties, or refuse my assent to alter or modify such tariff, as the good of the country at large, the welfare of its several parts, its relative position with foreign nations, or its agricultural, manufacturing, and commercial policy may from time to time seem to require.

It cannot be true that this compromise bill, or those it proposes to modify, are not subject to the same amendment and repeal as any other bills, or that the Legislature who made this compromise bill had any authority to bind or restrain subsequent Legislatures, who might deem proper to act in relation to it, or that it would be even a violation of good faith to do so; for who, I would ask, could pledge the representatives of the people not to relieve their constituents from the operation of laws proved by reason and experience to be unjust or prejudicial? In the absence of constitutional objections, questions of this kind must be determined with reference to their expediency and the rights and interests of the nation, and of all its parts.

Should our relative position with a foreign nation be changed from a pacific to a belligerent state, all will admit that it would be our duty to modify our tariff of duties so as to meet the new circumstances and relations in which we would be placed, and that our necessities might induce us to encourage the importation of articles which, under other circumstances, it would be our policy to exclude.

All will readily admit that if a foreign nation should change her commercial policy towards the United States, and alter her system of duties so as materially to affect our navigation and interests, or should violate the provisions of a treaty by which the commercial intercourse between the two countries had been regulated, that it might become necessary for us to counteract these measures by a corresponding action on our part, in relation to our tariff of duties.

And if, from experience, the duty on any article of import shall be found to be extremely partial and oppressive to a particular section of the country, by reason of its circumscribed operation—to produce but little revenue, but that little collected from a few for the benefit of the many, odious from its increasing the price of the necessaries of life, and, from its very nature, bearing hard upon the most needy class of our citizens, is it not equally evident that prudence, justice, and policy, would call for its remission, either immediately or prospectively, as circumstances may render expedient?

Did not the compromise bill itself originate from causes of this kind? and was it not intended to relieve the country from the operation of taxes, alleged to bear unequally and oppressively on particular parts; and if, from accident, inadvertence, neglect, or the want of knowledge of the operation of a particular duty, relief was not administered by this compromise bill, shall there be no remedy? Are the doors of legislation for ever closed against the oppressed class, because they did not complain of their grievances at the time this bill was under discussion, or add to the troubles of the nation when the North was arrayed against the South, and conflicting interests aroused the passions of men in bitter hostility? When our country, torn with dissension and threatened with civil war, filled the patriot with the most gloomy apprehensions for the future, while the enemies of our political system rejoiced in the prospect of its dissolution? If the representatives of the people shall be convinced that any portion of the community suffers unequal burdens, and consequent oppression, I feel every confidence that their sense of justice will apply the remedy.

The resolution before you proposes this inquiry; and, upon examination, it will be found that the duty on foreign coal, a primary necessary of life, is one of the most odious, oppressive, and unequal taxes ever imposed by a free Government on a free people, under similar circumstances. The tax on light in England, the result of her necessities, arising from protracted wars, does not reach the laboring classes. Our tax on heat, equivalent to one hundred per cent. on the first cost of the material that produces it, extends to the poorest of the very poor; and is extorted in time of peace and in the midst of abundance, without necessity to excuse, or reason to justify it.

By the act of the 10th of August, 1790, a duty of three cents per bushel was laid on foreign coal.

By the act of April, 1816, this duty was increased to five cents per heaped bushel.

By the act of May, 1824, it was further increased to six cents per heaped bushel. The act of July, 1832, left it in this situation; and although subject to the general operation of the compromise bill, coal is not among the articles enumerated in the fifth section of that bill, to be admitted to entry free of duty, after the 30th of June, 1842.

By a statement furnished me from the Treasury Department, it appears that the aggregate amount of coal imported into the United States during the year ending the 30th of September, 1834, was 1,626,185 bushels, on which the duties amounted to the sum of $94,425 94, after deducting one tenth of the excess of twenty per cent. authorized by the act of March 2, 1833. The duties on the coal imported into the city of New York alone, the same year, amounted to the sum of forty-five thousand one hundred and nineteen dollars and twenty-seven cents.

The income derived from this duty is paid into the treasury of the general Government, and applied to the use of the whole American people. The wealthy landholder, whose forest supplies him with fuel, is as much benefited by this tax as the poor tenant of a garret or cellar in the city, who feels happy if he can gather his hungry and shivering family over a few coals, while the winter storm is howling around his comfortless dwelling. But although the benefit of the tax extends to the whole community, it is paid by a part only, and that part but a small fraction when compared to the population of the United States. The whole of this tax, except so far as it may influence the price of manufac-

tures, is paid by the Atlantic cities and the inhabitants of their vicinity, of which the city of New York and its vicinage pay about one half; and, upon examination, it will be found that the consumers of foreign coal amount to less than two hundred thousand persons, who pay this tax, which goes into the common treasury of upwards of twelve millions of people. Is this not unequal and unjust? But, sir, it is oppressive also; the inhabitants of the interior have their fuel at a moderate price, generally for the mere cost of the labor of procuring it. To the inhabitant of a city fuel is one of the heaviest burdens he has to shoulder through life; it is one of the largest items in every man's family expenses, and fortunate are those who, by frugal industry, can obtain it. Many suffer from cold and hunger during our long winters, rejoiced if they can gather a few chips, saw dust, or tanners' bark after being ground and used for tanning purposes, to kindle a smouldering fire over which to warm themselves, their wives, and little ones. This is no picture of the fancy, it is literally true; and those who have lived in a large city like New York, and who have been called upon to visit the abodes of poverty and wretchedness, will vouch for the correctness of my statements. And I am persuaded, that if the American people become acquainted with the difficulty and expense of procuring fuel in cities, and the misery many suffer for the want of it, they would approve of the remission of this duty, which makes the poor man's home still more wretched.

Those who are relieved from it will certainly not complain. And I appeal to the better feelings of our nature, whether the inhabitants of the interior, who obtain fuel from their forests or the extensive coal beds with which some regions abound, and particularly whether the inhabitants of the South and West, in the enjoyment of mild climates and fruitful soils, would wish to extort this revenue from the inhabitants of the cities, and add to the difficulties of those who have to encounter long winters at places where fuel, from obvious causes, is at a high price, and where it is sold to the poor by the pennyworth?

In order to show the operation of this tax in the city of New York, with which I am most familiar, and where it is most severely felt, it will be necessary to make mention of some facts with which many may not be acquainted. By a statement from the Treasury Department, it appears that the aggregate amount of foreign coal imported into the United States during the year 1833 was 2,256,143 bushels, on which the duties amounted to $135,368 58; that there was imported into the city of New York alone during the same year 1,237,532 bushels, on which the duties amounted to the sum of $74,251 92, being more than one half the entire importation of foreign coal for that year; and this coal was consumed in that city and in its immediate vicinity, and sold at an average price of twenty-five cents per bushel. By a report of the city inspector, made in pursuance of the order of the common council of the city of New York, it appears that the expense of the fuel consumed in that city during the same year, exclusive of foreign coal, amounted to $1,088,658 92; add to this amount the estimated value of the foreign coal, being $309,383, and you have the enormous amount of $1,398,041 92, the cost of the fuel for that single year, exclusive of turf, chips, and other substitutes, made use of by the poor, for better fuel, and without including the cost of domestic fuel in the adjoining city of Brooklyn, which would swell the amount to nearly $2,000,000; and this enormous consumption of fuel is increasing with the augmentation of the population and extension of manufacturing establishments. Among the articles enumerated in the report of the city inspector, are 53,882¼ tons of anthracite coal, varying in price from $8 64½ to $6 29 per ton. From the best information I am able to obtain, the anthracite coal can be brought to the city of New York and sold by retail, and yield a fair profit, at a price varying from five dollars to six dollars and fifty cents per ton.

When it is considered that the price of fuel of all kinds is enhanced to the extent of this tax, or nearly so, and that the cost of fuel enters into all our domestic and manufacturing calculations, that the price of board, of bread, of light, of gas, and of every manufactured article, from a horseshoe to a steamengine, is more or less influenced by it, some conception may be formed of the extent of oppression occasioned by this duty to the city of New York, and the other Atlantic cities, in proportion to their consumption of foreign and domestic fuel.

Another evil flowing from this source is the obstacle this duty interposes to the inhabitants of that city, in selecting the kind of coal best adapted to their health, comfort, or convenience. The American coal introduced there is mostly of the anthracite kind, with the exception of the Virginia coal, which is principally used for manufacturing purposes.

The imported coal is bituminous, and many of our citizens, and most of the settlers from Europe, prefer it, having been accustomed to it from early life, or believing the use of it more conducive to health than the use of anthracite coal. It can also be used to more advantage for steam navigation than the anthracite, as it produces more flame in its consumption. By the operation of this tax, foreign coal is becoming excluded from our markets, and the quantity imported is gradually diminishing. Can any good reason be assigned why our citizens should be deprived of using anthracite or bituminous, foreign or domestic coal, at their option, and at a price so reduced, by taking off this duty, that the humblest individual could enjoy the comforts of a fire-side, and the growth and prosperity of our cities be promoted by lessening the price of living in them?

If this duty on coal was intended as a source of revenue, it has failed of its object, as the statement from the Treasury Department shows that it produced during the last fiscal year but $94,425 94; and as the national debt is paid, and we shall have in the treasury an annual surplus, after discharging all necessary expenditures, it is not required for that object; and I submit to the good sense of the House, whether the peace and harmony of the country will not be better promoted by circumscribing our revenue to our wants, as far as may be consistent with the protection of our national industry, than by collecting a surplus by unequal taxation, which will invite to extravagance in expenditures, and engender discord and jealousy under any conceivable plan of distribution; and I trust it will be generally conceded that it is better to retain among the people their own money, to circulate through the channels of commerce and industry, giving activity to business and vigorous impulse to enterprise, than to accumulate it in a national treasury, to become the subject of contention, and a source of speculation for the statesman and politician, to devise the least objectionable mode of returning it back from whence it came, unavoidably diminished by the expenses of original collection and ultimate distribution, and subject to contingent losses by defalcation and other causes. If this duty was intended to encourage national industry, it has defeated its object; for while it embarrasses commerce, increases the expense of living, and enhances the price of the implements of husbandry and of most manufactured articles to the farmer and consumer, it at the same time affords no protection to our manufactures, as heat is generally an agent in their production, and any augmentation in the price of fuel must operate to their disadvantage.

If this duty were intended to enable the coal of our

country to compete with foreign coal, it was unnecessary for such a purpose; as, without this duty, domestic coal can be sold cheaper than foreign coal, and yield a fair profit, as can be easily shown by a reference to the calculations made by the various coal and canal companies, in their applications for legislative patronage; and by a fair estimate of the cost of coal at the mines, the cost of transportation, toll, yardage, and other incidental expenses, and the increasing facilities of bringing it to market by railroads, canals, and new avenues of communication, will enable it to be sold at still more reduced prices.

Neither do the coal-producing States derive advantages from this duty proportionate to the injury it causes to the districts where its operation is felt, as is evident from the prices at which coal is sold at the collieries. A great portion of the increment of the price of coal arising from this tax is received by the speculators in coal, mostly consisting of the large incorporated coal companies, principally formed of city capitalists and non-residents of the coal-producing States, who are the proprietors or lessees of the largest and most valuable collieries, and who retail it to the consumer through their agents, and, by monopolizing the market, compel the purchasers to pay what they demand, unrestrained by the competition which foreign coal would oppose to them, if admitted free of duty. In order fairly to estimate the profits of the venders of coal, it may also be proper to observe that anthracite coal is sold in the city of New York by the ton, consisting of the nett weight of two thousand pounds, in conformity with the statute regulation of a ton weight in the State of New York, while coal is purchased at many of the collieries from which the supply is obtained, at the gross weight of two thousand two hundred and forty pounds to the ton.

I would submit to those who may wish to encourage the consumption of domestic coal, whether that object is promoted by unnecessarily increasing its price. I apprehend that the cheaper it is afforded to the consumer, just in that proportion it will force other fuel out of market, and supply its place.

Liverpool and other European coals are generally brought as ballast by American and foreign shipping. They could not be brought as a regular cargo without great loss to the importer. They may serve sometimes to complete a return cargo with advantage; but remit this duty, and the Nova Scotia coal mines would pour in a supply, which would compel the large coal companies and venders of domestic coal to reduce it to a fair price; and although at such a price it would compete with foreign coal, yet the foreign coal would operate as a check to any unreasonable increase of price. But waiving for the present the question of policy, would it be a legitimate object of the Government to promote the interest of one section of the country, to the prejudice and injury of other sections? Is it in accordance with the principles of our Union, with that spirit of amity and good feeling which should exist between the members of this great confederacy? Is it the meaning of the constitution, or was it ever contemplated by the framers of that instrument, that the citizens of one State should be indirectly taxed for the benefit of a sister State?

What would the farmers of Pennsylvania say, if a duty were put on plaster of Paris, or gypsum—a material which is sent in large quantities from the State of New York to fertilize their lands? And there is as much reason why foreign plaster should be taxed, to enrich the owners of plaster beds in the State of New York, as that foreign coal should be taxed to enhance the profits of the proprietors of domestic coal mines.

I will not examine the abstract question, how far our Government may be authorized to raise revenues beyond what may be necessary for the purposes of its organization. But it will be admitted that, as a general rule, it is not in accordance with the principles of sound government to increase the price of the necessaries of life by unnecessary taxation. Revenue should be raised, as far as practicable, from luxuries, with the double view of discouraging extravagance and of placing the burden on those who are best able to bear it, and who voluntarily assume the payment, by the consumption of the articles coming under that denomination. But if the necessities of the Government shall render it proper to impose duties on the necessaries of life, they should be placed on such articles as are of general consumption throughout the nation; and, in this point of view, a tax on salt, sugar, tea, or coffee, is far more equitable than the one on coal. Sir, the duty on foreign coal cannot be sustained by the arguments that may be advanced in favor of a duty on most other articles.

A duty on some articles of primary necessity may be defended on the ground of public policy. A duty may be put on sugar with a view to encourage its growth in our country; a duty on wool to encourage the raising of sheep among us; upon any product of the earth, to encourage our agriculture; upon any manufactured articles, to encourage the arts and enterprise of our citizens, to enable them to compete with foreign manufacturers, that our wants may be supplied in time of war, or when our intercourse with foreign nations, from whatever cause, shall be suspended; with a view to create a home market for our agricultural produce, by diverting a part of the national labor to manufactures, or to meet some extraordinary national expenditure or emergency. But a duty on coal can neither be defended on the ground of necessity or policy. The God of nature, in his divine wisdom, has placed extensive beds of coal in many sections of our country; duty or no duty, they are there; in peace or war, they are there. The price our citizens would pay for domestic coal, without the addition of price occasioned by this duty, will be a sufficient inducement to work the coal mines; and the increased consumption of domestic coal that would be created by the lowering of its price, and the gradual augmentation of the population, with the increasing facilities of transportation from the mines to the market, will at all times place it in fair competition with coal which must be brought over the ocean at much greater expense, with the hazards of the sea or the expense of ensurance. But, even admit that foreign coal could be brought to our Atlantic cities cheaper than domestic coal, this circumstance would afford no justification for so unequal a tax as this duty imposes, or for unnecessarily increasing the price of fuel; and no principle of our confederated Government, established for the benefit and protection of all its members, and guarantying equal rights, immunities, and privileges, to all its citizens, can sanction any law or policy which adds a factitious value to the mineral or other productions of some of the States, by increasing the burdens of the other States, or that enriches one part of the community by impoverishing the other part. If I am answered that this duty on coal is part of the compact formed by the compromise bill, and was the consideration and inducement for the coal-producing States to enter into it, I will reply that all compromises of this kind ought to be based on the principle of reciprocity, and are intended to secure mutual advantages to the contracting parties; that New York receives no equivalent for submitting to this unequal tax on her citizens; and that, in this legislative arrangement, her interests in this respect have not received that consideration to which they are entitled.

A more suitable time could not be selected to bring forward inquiries of the kind contemplated by the resolution. Our national debt has been paid; one and all

of us rejoice at this unprecedented event in the history of modern nations, so animating to the patriot, so cheering to the American people of all parties. Let the joyful tidings, as they roll along the valley of the Mississippi, or reverberate through the hills of Maine and New Hampshire, as they are wafted from the Atlantic to the lakes, and spread through every part of our country, as they reach the hamlet in the wilderness, the scattered settlements of the prairies, or the dense crowds of the city population, be followed by the equally joyful announcement that the Government is taking measures to lessen the burdens of the people, so far as the same can be done consistent with national faith, and a due regard to our great manufacturing, agricultural, and commercial interests; and while our statesmen are devising the means of disposing of the surplus revenue accumulating in the national treasury, let us not, at least, refuse the inquiry as to what duties on the necessaries of life may be remitted with benefit to all, and without injury to any.

Feeling unwilling to trespass longer on the time of the House, and grateful for the indulgence I have already experienced, I submit this resolution to your consideration, cherishing the hope that the inquiry will be allowed, and that it will be followed by a remission of the duty on coal, or at least that coal will be admitted to entry free of duty, in the same manner, and at the same time, as the articles enumerated in the fifth section of the compromise bill. I repeat, I only solicit an inquiry into the complaints of those who feel themselves aggrieved, and who look to the paternal wisdom of Government for protection. I do not wish to disturb the general provisions of the compromise bill, originating in those fraternal feelings which I cherish and respect; I only seek relief from the oppressive operation of a single duty, to which the attention of Congress was not particularly drawn when this compromise bill proclaimed to the nation that our dissensions had yielded to mutual concession, and that peace, harmony, and sentiments of attachment to our Union, prevailed throughout the Republic.

[During the delivery of Mr. FERRIS's remarks, as given entire above,

Mr. CROCKETT called for the orders of the day; which motion was decided in the affirmative: Yeas 102, nays 67.]

ALEXANDRIA CANAL.

The House proceeded to consider the motion heretofore made by Mr. BOULDIN, to reconsider the vote rejecting the bill for the relief of the city of Alexandria.

Mr. BOULDIN said if he could get the attention of the House, he would detain them only for a few minutes. He did not mean to take upon himself the laboring oar in support of this bill. He should leave that to others, the original friends of the measure, who were far more able than himself to do justice to it. He would state briefly what induced him to move a reconsideration, and inclined him to support the bill. When it was before the House last session he voted for it. That, he believed at the time, was a vote designed to test its merits with the House, and he was in its favor. Not having any particular occasion to notice its progress afterwards, he had been some way impressed with the belief that it had passed, and the money expended. Being called on rather suddenly and unexpectedly to him to vote on it again during this session, he thought it was a new bill, proposing to appropriate an equal sum for the same work, unaccompanied with any explanation why this additional sum became necessary. He then voted against it. Having found his mistake, and that this is the same bill which had never become a law, he had thought proper to move a reconsideration: not so much with the hope of obtaining a different decision, as from a desire to explain how he had fallen into the mistake, and to change his vote thus given under an erroneous impression. He had not for a moment cherished the vain thought that so large a majority could be induced to alter their vote from any thing he should be able to say; yet he felt certain that, with a few moments of their attention, he could satisfy the House that injustice had been done to Alexandria. Without intending the least disrespect to persons of a different opinion, he thought that a mere statement of the facts ought to convince any one. He begged gentlemen not to be led off from an inquiry into the facts by the striking absurdity of a canal running on each side of tide water—a broad, smooth, majestic river. It appeared to him in that light at first view, and nothing could have appeared to him more absurd, and he had not the least idea of voting one cent towards the completion of either. Being informed of one fact had surprised him exceedingly, and altered his mind so far as this bill is concerned. The fact, he said, was this: In 1804 Congress had passed a law changing the main channel of the Potomac, by which the trade to Alexandria had been vitally injured. The injury happened in this way: Before the Chesapeake and Ohio canal was constructed, there was an old canal, much narrower, which had been in use many years, around the falls of the Potomac, along which most of the produce made in the rich valley of Virginia above the Blue Ridge, as well as the produce raised on the banks of this river above its falls, passed down to Alexandria. Immediately after passing through this old canal, the small boats that came down passed through a deep narrow channel between the falls and Mason's Island, and, reaching the shore next Alexandria, stuck closely to it until they reached that town in safety. Mainly by this trade Alexandria had grown up to be an interesting city to the State to which she then belonged. She never was large, but once was flourishing. The act of 1804 closed up this passage between the falls and Mason's Island, and threw the boats bound to Alexandria down by Georgetown and below Mason's Island. The small boats that came down that narrow canal were not able, after passing Mason's Island, to cross the river in safety; for at that place it is more than a mile wide. After this passage was closed, very few boats that came round the falls ever reached Alexandria. Many vain attempts were made by that devoted city to recover from the shock produced by that act of Congress. With the hope of remedying the evil, she subscribed a quarter of a million of dollars towards the Chesapeake and Ohio canal. This money has been nearly or quite all expended in constructing this canal, and the determination now is, to carry on the work no farther towards Alexandria, but to carry it on through Washington city, and let it terminate in the Eastern branch of the Potomac, near the navy yard. This will leave the boats navigating the canal still on the side opposite to the one on which Alexandria stands. This work has been so far finished as to be in use from above the Blue Ridge to Georgetown. This, he said, he believed was a simple, unvarnished statement of the facts. And not a boat passing around the falls has reached Alexandria for several years past. If these be not facts, let gentlemen show what the facts are. These are the facts reported by committees and officers whose duty it is to report the truth. Mr. B. said he would add further, that he had been informed by others that such were the facts. He said he believed these statements to be true. If false, he would not entertain a thought of sustaining the bill a moment by his vote, were he only set right on that point. If true, can any man doubt that Alexandria has been injured, vitally wounded, by our legislation? Can it be possible that any man can believe it just thus to

deal with her? After her citizens have laid out their all on the banks of this noble river, at a place where ships of any burden can ride in safety, and the highest point the largest merchant ships that navigate the ocean can come to with safety, can it be right to divert the channel of the river and destroy her commerce wholly; suffer her to lay out a quarter of a million, in conjunction with the United States and the company, with a hope of thereby obtaining redress; lay out the money in constructing a canal to conduct the produce to the door of her greatest rival, and stop it there? Can it be possible that it is right to take her own money to build up her rival over her, and to enhance at the same time the value of our own stock, which is very large, in the Chesapeake and Ohio canal? Can any man be led to believe that those people would have strained every nerve as they have done to raise this money, if they had suspected even that such would be the use made of it? He said he thought this impossible. They must all have believed that the canal would in some way be made to advance, not to destroy, the prospects of Alexandria. Take the whole matter together, and it seemed to him, with due respect to others, to be manifest injustice. Take the building of the dam in 1804 separately, it seemed little short of violence. He was bound to believe, however, that the effects were not fully foreseen by those who voted for the law in 1804. But still he said he had looked to the vote given at that time, and it had confirmed in him the conviction of its injustice, and that many did foresee the evil to Alexandria. The vote of Virginia, he said, would show this. Eleven of fourteen who voted went against it. One of the three who voted for it lived in Georgetown, one on the river above that place, and the other lived towards the centre of the State. John Randolph voted against it. It would seem, then, that almost all of those who had the best opportunity to know what the effects would be, or who were most likely to be interested themselves, or feel for Alexandria, voted against it. It was a vote of unusual unanimity, and shows what they thought of it; and the effects since produced show the truth of their convictions. Whether designedly done or not, the mischief was done, and originally without the agency of Alexandria, and ought to be redressed. It is true that private interest must yield to the great interests of the nation; but a just Government will never injure private citizens, or take their property from them, without redressing the injury in some way. He said, if any person would point out a better mode of redress, he would cheerfully vote for that; for he was very far from being sure that this mode would afford the redress that was hoped for by its friends. Redress was due. He was afraid that complete redress was not attainable in any way. Let us, he said, then adopt the mode pointed out by the injured party, and then if it failed we might hush their complaints by saying we had done what was required at our hands. We are bound, he said he thought, to show an honest, earnest desire to make amends for an injustice growing out of our own act. How can any man, when he believes there is injury done, get over voting for this bill, or proposing something better? But, he said, he was sure it was only necessary for the House to believe that injury had been done, in order to induce them to redress it. He said he wished to be distinctly understood as casting no reflection on the conduct of the people of Georgetown: but Georgetown was rising, while Alexandria was going down. How did this happen? Alexandria once had the start of her rival, under equal chances. He said he heard some one say behind him that neither is rising. If, then, Alexandria was declining and doomed to destruction, that would be the last reason for doing her an injury or treating her unkindly.

He said he had stated, as briefly as he could, wherein he thought Alexandria had been injured. He would now say one word with a view to prevent any misunderstanding of his vote. He said he had voted against internal improvements made out of this District, believing that this Government had no right to make them, under the federal constitution. He believed we had the power to make internal improvements within this District; but had not looked on such works, even within this District, with a favorable eye; yet, he believed no one doubted the constitutional power of Congress to do good, to some extent, within the District of Columbia, and the work proposed is within its limits. He said he was not in favor of many of the splendid schemes for internal improvement in this District or out of it, by State or federal authority. He said he preferred to live in a country pretty much as God made it. He preferred to see towns grow up on the banks of navigable rivers, reared by the care and enterprise of man. He said there was something easy, social, and permanent, in this; a country mainly depending upon artificial means seemed to him to be always on the lift, always liable to change. He said he did not like to see the channels of the rivers or those of commerce diverted very far out of that course in which they had long continued, and consequently had long been trusted. After these towns had been built up by the patient industry of their citizens, for their own advantage and the benefit of the surrounding country, and the whole labor of that surrounding country had been applied for ages with a view to the permanency of these things, and trusting in them that they were to remain very much in the same relative situations, with the natural gradual growth, he did not like to see them rendered desolate, and their citizens bankrupt and ruined, and all their prospects blighted, by some splendid achievements of internal improvement. He did not like to see commerce diverted from its accustomed channels, to build up some town, destroying some ancient prosperous city, to be, in the same way, by some scheme still more splendid, in its turn destroyed, or to add to the grandeur and monopoly of some city already overgrown. He said he saw no beauty in all this; neither could he see the wisdom of it. Many of such schemes, he said, were mischievous. Many that he had thought entirely chimerical had been put into execution. The railroad at Petersburg, in Virginia, he had thought a wild scheme, considering the means which they had to accomplish it; yet, he said, it is now in daily operation. Some such things he believed to be useful, and the Petersburg railroad was one of them. It did but little injury to any one, and was productive of great good to many. He thought the plan proposed by the people of Alexandria far from being certain of success; yet he might be as much mistaken as he was about the Petersburg railroad. Men much better informed on such subjects were as much deceived in it as he had been; he did not affect to have any practical knowledge of such works. The men who had had success in other like works had confidence in this. But he would conclude by protesting that it was not with any view to give in to things of this kind himself, or from any great reliance of his own upon the success of this plan, that he made this motion to reconsider. No, he said he simply thought that Alexandria had been injured by our legislation, and that vitally; and that we were in justice bound, by our legislation, to redress it, or make the attempt; and, for the want of a better mode of redress, and that only, he was induced to support this bill. He said he was certain that, unless something in reply made it absolutely necessary, he should not again trouble the House upon this subject.

Mr. CHILTON said the decisive majority by which the bill had been before rejected was such that he did

not imagine such lights would be thrown upon it, by further discussion, as to change that issue; and, moreover, as there were many bills of great importance pressing for action, he would, for the purpose of testing the disposition of the House, move to lay the motion on the table.

Mr. MANN, of New York, called for the yeas and nays; which were ordered.

The question was taken, and resulted as follows: Yeas 89, nays 104.

So the House refused to lay the motion to reconsider the bill on the table.

Mr. THOMAS, of Louisiana, said he was in favor of a reconsideration of this question; but from very different views from those advanced by the gentleman from Virginia, [Mr. BOULDIN.] The Congress of the United States stood in the relation of a local Legislature to the ten miles square composing the District of Columbia. This District did not possess the privileges of a State, but looked to the federal Legislature as a child looked to its parent. He for one felt bound to advocate its interests as much as he would those of the State in which he lived. If the legislation of a State inflicted injury, it was admitted that the State was bound to make reparation for the evil it had inflicted. Mr. T. felt it his duty to call the attention of the House to this ten miles square. He thought it hard that the whole twenty-four States should be unwilling, or feel themselves unable, to take care of so small a territory, deprived of the means of taking care of itself. It was hard that they should shut up their bowels of mercy and compassion against the natural appeals of the child dependent on them, and cut off from all other succor. But gentlemen were in the habit of viewing every appropriation in this District as so much money taken out of the treasury, and belonging to people at a distance. This position he denied. He asked how the District came to belong to the United States. They asked for its cession from two States. The answer of Virginia was, that she must first obtain the consent of her citizens. When this was done, some forty years ago, she gave as it were with her child, a dowry of $120,000, which, if running upon interest, would now amount to about $300,000. Of this fund, the United States had enjoyed the benefit. He denied that the United States was advancing one cent out of the pockets of the people. He believed, if we should give this ten miles square a Governor and a little Legislature of their own, they would do this work for themselves; and perhaps it would be much better for them, rather than to depend on the great body so little disposed to do any thing for them. He was in favor of the appropriation, as a matter of sheer justice.

Mr. BATES said he was in favor of the motion for reconsideration. In his view, Congress ought to make the appropriation asked for. He had no desire to see a city of ruins in the District of Columbia, nor such a monument as the aqueduct across the Potomac, begun and abandoned by Congress, would present to those who are to come after us. He would complete it, if the cost were to be ten times the estimated amount.

Gentlemen take but a superficial view of the subject when they estimate the actual cost to the country of a work of internal improvement according to the amount of money paid for it. That is but one of the elements to be taken into the calculation, and not always the most important one. The true measure is the amount of labor withdrawn by the work from other useful and productive occupations. If the products of labor, in the other departments of industry, are not lessened by the work in hand, the work itself costs the country nothing. It simply transfers money from the treasury to the people, the wealth of the nation still remaining, so far as the cost of the work is concerned, identically the same. If, in this District, the work in question can be made by hands that would otherwise be idle or employed to no useful purpose, it will cost nothing, whatever may be the amount of money exchanged in the progress of it; and, in such case, the improvement itself, with its beneficial effects, is clear gain. How this will be we have evidence enough. In my judgment, this work may be made with little actual expense to the country. I think we ought to make it; and I will never consent to leave it thus unfinished, a monument of our folly either in beginning or abandoning it.

Mr. SPEIGHT said he did not suppose his opinion would have a tendency to change the vote of any member on this question, but he felt bound to give the reasons which would impel him to vote against the reconsideration. He held different views from those advanced by the gentleman from Louisiana, [Mr. THOMAS,] of the relation in which the District of Columbia stood towards the general Government. He considered this projected appropriation as a mere entering wedge, looking to future expenditures of the money of the people, and of the States, on works of internal improvements. He asked what they were called on to do? To cut a splendid canal alongside of a navigable river, fully equal to all the wants of the people in its vicinity. He could conceive of no project more absurd, and called on gentlemen to go and view the works, and convince themselves. He had always found, when the public purse was opened for such works, individual enterprise was relaxed, and the works thus professedly fostered by the Government were most liable to languish. Mr. S. said he was the friend of internal improvements; but they should be confined to their proper conservators. His doctrine was, that the money requisite for their accomplishment should remain in the hands of the people, and be by them expended at their own option. Those works which had been prosecuted under the auspices of Government funds had generally given more evidence of peculation than enterprise. The general Government had been accused of extravagance by interested partisans, and the fault was laid at the door of the President or the present administration, while the extravagant appropriations on that floor were the source to which all these complaints were attributable. He therefore called upon every gentleman on that floor, who professed to sustain the principles of economy avowed by the administration, to put a stop to these extravagant expenditures. Mr. S. said he should vote against the motion for reconsideration, as he believed the work inexpedient, and liable to cost a million of dollars, rather than the hundred thousand applied for.

Mr. VINTON said he should vote for the reconsideration, on the ground that the House had previously appropriated $100,000 for the work—80,000 of which was already expended, and the remainder was under the process of expenditure. When the House decided the question to make the former appropriation, they decided the question of its expediency; and he did not think that question should now be agitated. The question was, whether the sum already expended should be lost, or whether it should be saved by the passage of the bill proposed to be reconsidered. The expediency of the work being decided by the former action of the House, he thought it required most cogent reasons from gentlemen opposed to the appropriation for refusing to continue it.

Mr. MILLER said he was in favor of a reconsideration of this question, and of the appropriation, for reasons similar to those given by gentlemen who preceded him. He had, on a former occasion, opposed an appropriation for this work, under the belief that it would require a much larger sum than he was now convinced would be adequate to the completion of the work. He would depre-

cate the loss of the sums already expended, and he was now willing to vote for the sum required in the bill.

Mr. MINER said, here was a place located on navigable water, well situated for trade and commerce, and which, by the industry and enterprise of its citizens, was prosperous and flourishing, until by an act of the Government, that was perhaps very proper, for of that he knew nothing, an impediment had been placed in the river, turning and changing the old natural channel, and thereby substantially destroying the navigation formerly carried on there. This was the case of the city of Alexdria. Now came the question, whether an attempt which had been made to remedy this evil by the formation of a canal, which was called, and certainly was, an internal improvement, for the purpose of placing that city in some degree in the same situation it was before, should be completed. He was in favor of internal improvements generally, but this recommended itself on different grounds from what those usually did. Here was a city possessed of advantages bestowed upon it by the God of nature, a navigable stream to it, and of which it had been deprived by an act of the Government; and surely the application stood upon much higher grounds than those of ordinary cases of internal improvement, for the benefit of those who were not benefited before, and to whom it was a mere matter of favor, policy, or interest, whether it were done or not. But when the Government has interfered with pre-existing rights, or taken away privileges and advantages given by God himself to them, and when they have laid out almost their whole fortunes in the erection of buildings, warehouses, &c., for the purpose of carrying on their commerce, then he considered it a question resting on an entirely different basis than ordinary cases. It was on that general ground that he was in favor of reconsidering the vote rejecting the bill, and in favor of the grant proposed.

It had been said, and this weighed greatly on his mind, that the people of Alexandria had been led to expect that the canal, or one part of it, should be extended to that city; and that such assurances had been given, or held out to them, as raised expectations in their minds that such would be the case; that the canal would not be carried to Georgetown, or to this city, and there stop, from which they could possibly draw no advantage, but, on the contrary, receive nothing but injury. Under this expectation they subscribed a large sum of money to aid in the completion of the canal, all which money they had lost—worse than lost—provided the canal should stop where it then was, since their trade would be entirely destroyed. Mr. M. apprehended that this consideration alone would lead to the conclusion that the proposed appropriation ought to be made; and he accorded in the idea suggested, that it would be an act of injustice not to do it. He had no fears that it would not meet the views and wishes of their constituents, to extend the work a little further, and not stop in the middle of it. He believed it would redound to the honor, and glory, and wisdom, of the Government, and he hoped the motion to reconsider would prevail, and the application be successful.

Mr. PARKS said they were told by the gentleman from Ohio [Mr. VINTON] that this work having been commenced by the United States, it was incumbent upon those gentlemen who were opposed to the reconsideration of this vote, and opposed also to the construction of the work, to give good reasons why it should not go on. Mr. P. apprehended it would not be very difficult for any gentleman, in justification of his vote on this subject, to show that the work, if completed, would be useless, and that all the money heretofore expended upon it had been entirely, or almost entirely, wasted. That it was useless, a moment's reflection would, he thought, convince any one. Here was one of the finest rivers upon the face of the earth, flowing between two commercial cities, or rather between two cities once commercial, and one of them asking Congress to dig a canal by the side of that river for the purpose of benefiting commerce. Was it possible for any boat or vessel to be conveyed on that canal that could not float on this majestic river? It was not. But, even were it so that this canal should be made the means of conveying the vast resources of this District, they would not go to Alexandria. The inevitable result was, that commerce would become concentrated at particular spots, in large cities and towns. The commerce of this section of country was once divided among many small rival ports; it was now concentrated in the city of Baltimore. Railroads might be constructed, canals might be dug to this city or to Alexandria, the railroad from the Point of Rocks, or to Washington city from Baltimore, would take every barrel of flour and every species of commodity from the city of Alexandria. Even if it could promote the navigation of the river itself, it would be useless, as far as Alexandria was concerned.

Mr. P. had stated that the money already expended had been thrown away: let us see how the fact stood. His recollection was, that the $100,000, voted last session, was for the purpose of building an aqueduct across the river at Georgetown. The gentleman from Massachusetts [Mr. BATES] has said that the abutments were completed. Mr. P. did not know what the gentleman meant by abutments; but he himself had searched on the west side of the river, and could find nothing done that appeared to have any connexion with the aqueduct. On the other side he saw a pile of earth, which, anywhere in the North, could have been raised at a trifling expense. That was all he saw; and if the gentleman saw more, he was more fortunate than Mr. P. had been. The gentleman from Massachusetts further said, inasmuch as the work had been begun, it was the duty of Congress to complete it, whatever might be its cost, and that he, for one, would never consent that this canal should stand as a monument of our folly. Mr. P. would defy that gentleman, on any part of the habitable globe, out of the District of Columbia, to find such a monument of folly as this canal would be, if it were completed. The truth was, it was nothing more than voting the public money away for the benefit of the indolent in this District, and Mr. P. was for doing it, if at all, openly, plainly, and avowedly, so that their constituents should understand the purpose for which it was done. He could not bring himself to believe, and he had devoted some attention to the subject, that the canal, if finished, would ever benefit the country, the District, or a single individual except the contractor; and for this reason he should vote against the reconsideration.

Mr. HAWES jocosely remarked that, unless he took a hand now and then, he was beginning to fear he should forget how to speak. Moreover, he had another reason. His honorable friend from North Carolina [Mr. SPEIGHT] had sounded the administration trumpet, and called upon all the friends of the administration to come forward and resist this attempt at extravagant expenditure; and, as Mr. H. held himself to be as good an administration man as any gentleman upon that floor, he felt bound to obey the summons of the trumpeter. He was, however, somewhat afraid it would turn out like the case of a man in the western country celebrated for raising hogs, who was in the habit every morning of calling them, and when they came up, he gave them nothing to eat. At last they refused to come at his call, and the man swore he would change the breed of his hogs, because they refused to obey his summons. (Laughter.) But Mr. H. agreed with his honorable friend, and he would give his reason for it.

The gentleman from Pennsylvania [Mr. MILLER] said

that he opposed this bill at the last session of Congress; but having at this session a better understanding of the matter, he should support it. And what, let me ask, sir, (said Mr. H.,) is this better understanding of the matter? He says that the people of Alexandria were induced to subscribe for this canal under an agreement, or a compact, or an assurance, or an understanding, that it should terminate at the highest navigable point. Well, and what was the highest navigable point of the river? At Georgetown; and at Georgetown the canal terminated; and there, in his opinion, it ought to terminate. The very compact which induced the people of Alexandria to subscribe to the canal had been carried into effect; and yet, says the gentleman, "upon better understanding of the matter," he is induced to alter his vote from that of last session.

Mr. H. would ask, what would be the consequence if the canal would effect all the people of Alexandria predicted? Why, to build up their city, and, at the same time, destroy Georgetown. There were three cities in this District contending for the trade and commerce from foreign parts, and whichever would be built up, would result in the destruction of the others. For his part, he never would vote for an appropriation of money to build any canal by the side of a navigable river, erected by the hand of nature, and better than any canal Congress could construct, if it were to expend the whole resources of the Government in attempting it; a river which vessels of almost all sizes could navigate with safety. The argument about compensation amounted to nothing. Suppose the States of New York, Pennsylvania, and Ohio, had been stayed by the principle that, to construct a work in one part of the country might for a time injure another, where would now have been their great works of internal improvement, and their treasures? Remuneration was never thought of by them.

Mr. H. made a few further remarks, and concluded by repeating his intention to vote against the motion to reconsider.

Mr. MERCER entered into a detail of the circumstances and the various proceedings of the corporations of Washington, Alexandria, and Georgetown, connected with the original location of the Ohio and Chesapeake canal, and the origin of the contemplated aqueduct. He urged, at length, the importance and utility of the proposed improvements, which he contended could be completed by the appropriation of $135,000 in addition to former appropriations.

Mr. MANN, of New York, considered that a principle of infinitely more importance was involved in this question, than the mere expenditure of the money called for in this appropriation; that it in fact included the principle whether or not the general Government was bound to take on itself all the responsiblities incurred by the corporations of the District. He thought Congress had already been over liberal with the money of the American people, in the grants which it had made to the three cities of the District.

Mr. ALLEN, of Virginia, contended that Congress, so far from having expended the money of the public treasury on the city or citizens of Alexandria, had not even disbursed for its benefit the sum which was received on the cession of that portion of the ten miles square by the State of Virginia. The only thing actually granted for the special benefit of that city was the miserable pittance of $10,000 for the erection of a jail. Mr. A. contended, further, that the whole District had not received that which it had a right to have expected at the hands of the general Government. They were not, of course, to take into account the expense of the public buildings erected in Washington, and which were designed for the service and benefit of all parts of the Union. With regard to the particular work in question, it was one the importance of which had been recognised and asserted by the first engineers of the country; and, in his opinion, its completion was the only thing which could save Alexandria—and that once flourishing city—the pride of Virginia—from total and final ruin.

Mr. HARDIN rose to address the House in opposition, and remarked that he was willing now to proceed with his argument; but, as it was late in the day, to test the wishes of the House on the subject, he would move an adjournment.

The question on adjournment was taken by tellers, and decided in the affirmative: Ayes 94, noes 77.

So the House adjourned.

WEDNESDAY, FEBRUARY 4.

PENSION AGENT IN INDIANA.

Mr. LAY, from the Committee on Revolutionary Pensions, reported a bill to authorize the Secretary of War to appoint an additional agent for paying pensioners in the State of Indiana; which was read twice.

Mr. LAY moved that the bill be ordered to be engrossed.

Mr. LANE suggested that an arrangement was about being made, whereby the State Bank of Indiana, and its ten branches, would act as the agents of the Government in the payment of pensioners. If so, the passage of the bill would be unnecessary. He moved to postpone the bill until to-morrow, in order that the House might act understandingly on the subject.

The postponement was opposed by Messrs. LAY, KINNARD, and EWING, and advocated by Messrs. LANE and WARDWELL. The motion prevailed: Yeas 65, noes 63.

The hour for the consideration of reports and resolutions having expired,

On motion of Mr. HARPER, of New Hampshire, the House took up the orders of the day; when

Several bills from the Senate were read twice and referred.

FRENCH SPOLIATION BILL.

The bill from the Senate making appropriations for the satisfaction of certain spoliations committed on the commerce of American citizens prior to the 30th of December, 1800, was then taken up.

Mr. MANN said it was probably known to the House that this bill involved considerations of the first importance to this nation. It was a bill making an appropriation of the enormous sum of $5,000,000, to pay for French spoliations, on grounds which he must say were, at least, of a doubtful character; and this bill was brought forward at a time when, as we were informed by the Secretary of the Treasury, if all the appropriations already made were duly satisfied, there would not remain in the treasury, on the 1st day of January next, $50. He had taken occasion to examine the grounds of this bill, and would say that, if ever the time came for its consideration here—but he hoped it never would come—he could satisfy the House that the claims were destitute of foundation. A large part of these claims were from citizens of his own State, but still he was brought to the conclusion that they were not well founded. He hoped that, at so late a stage of the session, when so many bills of public importance were before us, the House would refuse to consider this subject. He therefore moved to lay the bill on the table, and thereupon asked the yeas and nays; which were ordered.

The SPEAKER stated that the question would be, "Shall the bill be rejected?"

Mr. POLK rose to a question of order. When the joint resolution on the subject of the deposites came to the House from the Senate, he made a motion, after its

first reading, to lay it on the table, and the motion was entertained.

The SPEAKER said, if he made such a decision, it was erroneous, and he proceeded to read the rule on the subject.

Mr. POLK asked whether the motion to lay on the table had not precedence of any other motion?

The SPEAKER replied that the special rule, in this case, set aside the general rule. This was the first occasion on which the question had been presented to the Chair. The question of order could not have been raised on the occasion alluded to by the gentleman from Tennessee.

Mr. SPEIGHT rose, he said, to appeal to the gentleman from New York, in favor of suffering this bill to take the usual course. He was desirous that the subject should be thoroughly investigated, and if it should be found that we owed the claimants, on account of these spoliations, he would vote for paying them, whatever might be the state of the treasury.

Mr. CAMBRELENG would unite his effort, he said, to that of the gentleman from North Carolina, for the withdrawal of this motion. On a question of such vast importance, there would not be time for the House to act at this session. But the committee could at least go as far as to report what documents ought to be printed, in order to inform the House in regard to the subject. He believed that no subject ever had been presented to the House which involved so many important questions as this. One question was, whether the Government would be made responsible, in any case, for an indemnity due from a foreign Power, and not provided for by treaty. He had not made up his mind on this subject, and he should go into the consideration of it with a determination to do justice to the claimants and to the country.

Mr. MANN said, as the impression seemed to prevail that the bill ought to be suffered to take the usual course, he would withdraw his motion to lay the bill on the table.

The bill having been read a second time,

Mr. MANN moved its reference to the Committee of Ways and Means.

Mr. CAMBRELENG moved its reference to the Committee on Foreign Affairs.

Mr. E. EVERETT said it was proper to refer the bill to the Committee on Foreign Relations. To that committee the subject had been referred when it was formerly before the House.

Mr. BURGES said this was not a question on a subject connected with the duties of the Committee of Ways and Means. When the bill was passed, it would belong to that committee to devise the means of meeting the appropriation.

Mr. GILLET said the bill involved the consideration of the evidence of claims. It was a question of the construction of an instrument, and, therefore, ought to go to the Committee on the Judiciary. He moved its reference to that committee.

Mr. FILLMORE, with great deference, suggested that, as a claim upon the Government, it ought to go to the Committee of Claims.

Mr. ARCHER remarked that every petition relating to this subject had been uniformly referred to the Committee on Foreign Relations; and if this bill was committed at all, it ought to be committed to that committee; but he was entirely persuaded that it was not possible for the House to act on the bill at this session.

Mr. McKIM asked to be excused from voting on this question, as he was personally interested in it.

Mr. MANN said it seemed to him that the most material part of the bill concerned the money which was to be paid, and our relations with foreign Powers; and without provision for payment, the bill would be of very little consequence. He knew of no reason for sending it to the Committee on Foreign Affairs, as it was a question of the payment of money to individuals and favorites. He would not go further into the discussion, b t would ask the yeas and nays; which were refused.

Mr. VANDERPOEL said there could be no doubt that the most appropriate committee to which this bill could be committed was the Committee on Foreign Affairs. His colleague [Mr. MANN] had observed that it was only or mainly a question of money, a matter about dollars; but it was more than this. It involved the question whether the faith of the nation was either expressly or impliedly pledged for the payment of these claims. If pledged, how? Why, sir, by reason of certain results and liabilities springing from our relations with a foreign Government. The question, then, now to be determined, was liability or no liability. After that was determined, it would be time enough to institute an inquiry into the ways and means of satisfying our obligations, if any should be adjudged to exist. Then the legitimate functions of the Committee of Ways and Means could be invoked; but now it was a question whether, according to the laws of nations, and our past relations with France, this nation was responsible to its citizens. [Mr. V. here read the 57th rule of the House, to show that this subject-matter did not come within the duties of the Committee of Ways and Means, as there prescribed.] He said that, when we come to act finally on this subject, it was more than probable that he would be found on the side of his colleague, [Mr. MANN;] for he had paid some attention to the subject, and was inclined to the opinion that the United States were not legally or equitably liable to these claimants; but this could not preclude him from voting for now giving the bill such a direction as he believed the rules of the House and the nature of the subject required.

The motion to commit the bill to the Committee of Ways and Weans was then rejected--26 to 119.

Mr. WISE moved instructicns to the Committee on Foreign Affairs to report the bill on or before the 20th of February, but withdrew the motion.

The bill was then referred to the Committee on Foreign Affairs.

PUBLIC DEPOSITES AND UNITED STATES BANK.

Mr. POLK said he had given notice some days ago that he would this day move that the House proceed to the consideration of the bill regulating the public deposites of the United States in the local banks, and the bill in relation to the Bank of the United States; and he now moved to postpone all the orders of the day preceding those bills, in order to take them up.

Mr. CHINN was exceedingly anxious, he said, for the House to decide to-day on the Alexandria bill.

Mr. CLAY hoped the motion would not prevail. The bill regulating the deposites could not become a law. The experiment had been tried.

Mr. POLK said he would not admit that the bill could not become a law; on the contrary, he was disposed to try the experiment again. He should therefore press its early consideration upon the House.

Mr. McKIM asked for the yeas and nays; which were ordered.

Mr. WILLIAMS asked what bills would be set aside by the motion.

Mr. CLAY said, about two hundred bills, one of which was the bill to reduce and graduate the price of the public lands.

The question being taken on Mr. POLK's motion, it was decided in the negative: Yeas 90, nays 111.

Mr. POLK then said that the passage of these bills was necessary to the proper operation of the fiscal con-

cerns of the Government, and he should ask the House, on Tuesday next, to take them up. In the meantime he hoped that many of the bills of immediate interest would be disposed of, and that the House would then determine whether to act on the deposite bill and the bills relating to the bank at the present session.

ALEXANDRIA CANAL.

The House proceeded to the consideration of the motion to reconsider the vote rejecting the bill for the relief of the city of Alexandria.

Mr. HARDIN rose and addressed the Chair as follows:

Mr. Speaker: I would not trespass again on the attention and patience of the House on this subject, were it not for the peculiar situation in which I am placed. It will be recollected that, when the question on the passage of the bill at a former day of the session was presented to the House for its final vote and decision, I had the honor to address a few remarks to this honorable body. I was replied to by several gentlemen, and particularly by the chairman of the Committee on the District of Columbia, [Mr. CHINN.] The reporter for the Intelligencer, whose position is some sixty feet from where I stood, took notes of what I said on that occasion. The notes, such as they were, appeared in the Intelligencer. They were not given to me for correction. What I then said was not correctly given to the public, either as to matter or manner. They omitted some things I did say, and made me say that which I never uttered. The speech of the honorable gentleman who replied to me was published in the same paper, and at the same time, and given to the world as a contrast, one to the other. The notes of what he said were furnished to him for his revisal, finishing touch, and correction. The remarks I made, I have no doubt, suffered by the comparison. The honorable gentleman was much nearer the reporter than I was when he spoke. I do not now again ask the attention of the House on my own so much as I do on account of the great cause I advocate, and as a justification of the motives which influence me.

I wish to be distinctly understood as not intending to insinuate that the reporter or the editors of that paper intended to do me injustice; I know they are incapable of it; but it was an omission in not furnishing me the notes for correction; and I am the sufferer by it. It is a melancholy reflection to see and know how much a man's fame and reputation in this House is made to depend upon the attention or neglect of the reporters of the debates, or upon their whims and caprices, good or bad feelings towards the speaker or the cause he is advocating. The public good requires their attendance here, and we must bear with them as a necessary evil. Having said this much in relation to that which chiefly concerned myself, I will now solicit the attention of the House, while I make a few observations upon the merits of the bill, and in answer to what has been said on the other side.

The bill proposes to give to the Alexandria Canal Company $100,000, not to take stock in the company to that amount, but in fact and truth to make a present of it. This sum in addition to $100,000 given by Congress in 1832 to the same company, and for the same object, which sum has nearly all been expended. The company urge and press their claims to the money upon a great variety of considerations; some of which I will notice, and I will endeavor to do it with that order and method calculated to make me best understood.

It is said that Virginia, when she surrendered to the United States that part of the District of Columbia south of the Potomac, and which includes Alexandria, gave to the United States $100,000; this money and interest is claimed by Alexandria from the general Government. I will ask the honorable gentleman who advanced this argument, when this money was given by Virginia, was it intended to be reclaimed? Surely not. Virginia is too noble, generous, proud, and magnanimous, to give and then demand the gift back again. What she gives, it goes freely, and is gone from her for ever. It is an insult on the giver for Alexandria to claim it. She, by the claim, insults the feelings of Virginia, and diminishes the value of the gift. Maryland, when she surrendered that part of the District which lies north of the Potomac, gave about $40,000. Has she ever reclaimed it? No, never. But, Mr. Speaker, I have heard of this gift so often, the last session and the present, that I propose to spend a moment or two longer in the examination of it. When this District was formed, by the cessions of Virginia and Maryland, and those two small gifts were made, the Government of the United States was then in its infancy. The population of the whole of the States was little over three millions. The United States had assumed the revolutionary debt of all the States, amounting to near one hundred millions. Virginia and Maryland had thus got clear of their debts, which were many and large. The sums each State owed I do not know, but certainly several millions of dollars; and in return, one State gave $100,000, and the other $40,000. All the States, except Georgia, ceded their waste and unappropriated lands to the general Government, for the common benefit of all. I ask gentlemen what return, since then, have the United States made to Virginia? In addition to assuming her revolutionary debt, they have from time to time paid off, in land and money, the commutation and half pay of the officers of the State and continental line—amounting, in the whole, to at least one million of dollars. These heavy responsibilities and large sums paid are not all. The general Government has made a turnpike road from Cumberland to Wheeling, passing through a part of Virginia. Averaging the cost of that part with the cost of the whole road, the sum expended in Virginia will be about $500,000. The Government of the United States has paid $150,000 for the bridge across the Potomac at the little falls and the turnpike road to the District line, and has made them free of toll, which enables the people of Virginia to bring their produce to Georgetown and Washington without any cost or charge. We have also paid $20,000 to the owners of the bridge across the Potomac, opposite the city of Washington, and appropriated $150,000 to rebuild the bridge—that is likewise a free bridge; so that all the Virginians come to the city and Georgetown with what they have for sale free of toll, and have now opened to them, at the same cost of transportation, three markets instead of one, which was all they formerly had.

These are the returns which the United States have made to Virginia for her cession and gift of $100,000. What has Maryland ever received, except the assumption of her revolutionary debt? Not one cent. When her citizens come and have to cross the Eastern branch with their produce, down to a turkey or pound of butter, they have to pay toll to the proprietors of the bridges across that river. If it were left to my choice, I would make those bridges free also, by the Government purchasing out the stock; yet the people of Maryland have never complained.

I should be glad to know how the city of Alexandria can claim this $100,000. If it can be claimed at all, it is by Virginia alone; and if she makes the claim, then it is a money transaction altogether; and let us account to and with each other, strike the balance, and let either party pay as that balance may fall.

But suppose Alexandria has a right to it—then how does the claim stand? We have paid about $12,000 to purchase ground and build a jail for that city. We

gave to the people of that city, who suffered by fire, $20,000, and, as I have already shown, we, in 1832, gave this very company $100,000. Alexandria and this city participate equally in the long bridge, which has cost $150,000. If it be possible ever to liquidate and pay this pretended debt, it has been paid ten times over to Virginia and Alexandria. When I come to enumerate what has been disbursed for this whole District, which I intend to do hereafter, I will then show what has been paid to sustain the judiciary and executive departments which govern the District, and properly belong to it, and in which Alexandria has largely participated.

A gentleman from Virginia, [Mr. ALLEN,] has put this question upon another ground. He says we are indebted to the District between seven and eight hundred thousand dollars—the amount of the proceeds of the public grounds which we have sold and not accounted for, as by the deeds from the original proprietors we were bound to do; and that it is a reproach to the justice of this House and the nation if we do not pass this bill, and thereby pay a debt which we owe; nay, to use his own words, that the honor of the nation will be tarnished by a foul stain, if we refuse the appropriation asked for. In addition to that statement of the honorable gentleman from Virginia, the mayor of this city stated to me that the United States owed the District about six millions. I think I understand those gentlemen who talk in this way about so heavy a debt—it is to familiarize Congress to it.

It will be recollected by the House that this city owes a debt in Holland of $1,000,000; Georgetown owes a debt to the same people of $250,000, and Alexandria a like sum of money, borrowed to fill their respective subscriptions to the Ohio and Chesapeake Canal Company. We paid $70,000 for this city last year—the interest on this debt and cost of remittance. There is a bill in the Senate to pay it for five years more; and when the whole debt for the District falls due, amounting to $1,500,000, we are to be called on to pay the principal; and to prepare us for that event, this pretended debt is to be set up and claimed. The gear is not put on the horse in the first instance, nor is the ox put into the yoke; both are broke into the gear and yoke by degrees. We are to be trained shortly in the same way, in relation to this Holland debt. I intend, Mr. Speaker, to resist this unfounded demand in favor of the District against the United States, at the threshold. In truth and fact, if we are to give, let us have the credit in word, promise, and honor, of giving, and not permit ourselves to be mocked and insulted by having it claimed of us as a debt.

I propose, if I can obtain the attention of the House, to examine into the nature and extent of this demand. The agreement between the original proprietors and the commissioners appointedon the part of the Unites States is in these words:

Proceedings of the commissioners appointed by the President of the United States of America, by virtue of an act of Congress intituled "An act for establishing the temporary and permanent seat of the Government of the United States."

At a meeting of the commissioners appointed by virtue of an act of Congress intituled "An act for establishing the temporary and permanent seat of the Government of the United States," at Georgetown, in Maryland, on Tuesday, the 12th day of May, in the year one thousand seven hundred and ninety-one.

Present—Thomas Johnson, David Stuart, and Daniel Carroll, Esquires.

The form of the conveyance to trustees, to be executed by the proprietors of the lands between the Eastern branch and Rock creek, prepared agreeably to the directions of the President of the United States, and pursuant to the tenor of the agreement signed by the proprietors, was presented by Mr. Johnson, and agreed to by the commissioners—but there was this difference between the deed from Mr. Young and the deed from the other proprietors, as then agreed upon, that the word "garden" should be inserted after the word "building,' in two places in the deed from Mr. Young.

The agreement entered into by the proprietors is as follows, to wit:

"We, the subscribers, in consideration of the great benefits we expect to derive from having the federal city laid off upon our lands, do hereby agree and bind ourselves, heirs, executors, and administrators, to convey in trust, to the President of the United States, or commissioners, or such person or persons as he shall appoint, by good and sufficient deeds in fee simple, the whole of our respective lands, which he may think proper to include within the lines of the federal city, for the purposes and on the conditions following: The President shall have the sole power of directing the federal city to be laid off in what manner he pleases. He may retain any number of squares he may think proper for public improvements, or other public uses, and the lots only which shall be laid off shall be a joint property between the trustees on behalf of the public and each present proprietor, and the same shall be fairly and equally divided between the public and the individuals, as soon as may be, after the city is laid off.

"For the streets the proprietors shall receive no compensation, but for the squares, or lands in any form which shall be taken for public buildings or any kind of public improvements or uses, the proprietors whose lands shall be so taken shall receive at the rate of twenty-five pounds per acre, to be paid by the public.

"The whole wood on the lands shall be the property of the proprietors; but should any be desired by the President to be reserved or left standing, the same shall be paid for by the public, at a just and reasonable valuation, exclusive of the twenty-five pounds per acre to be paid for the land on which the same shall remain.

"Each proprietor shall retain the full possession and use of his land, until the same shall be sold and occupied by the purchasers of the lots laid out thereupon; and in all cases where the public arrangements, as the streets, lots, &c., will admit of it, each proprietor shall possess his buildings and other improvements, and grave yards, paying to the public only one half the present estimated value of the lands on which the same shall be, or twelve pounds ten shillings per acre. But in cases where the arrangements of the streets, lots, squares, &c., will not admit of this, and it shall become necessary to remove such buildings, improvements, &c., the proprietors of the same shall be paid the reasonable value thereof by the public.

"Nothing herein contained shall affect the lots which any of the parties to this agreement may hold in the towns of Carrollsburgh or Hamburgh.

"In witness whereof we have hereunto set our hands and seals, this thirtieth day of March, 1791.

Robert Peter,	[seal.]	Edward Peirce,	[seal.]
David Burn,	[seal.]	Abraham Young,	[seal.]
James Lingan,	[seal.]	James Peirce,	[seal.]
Uriah Forrest,	[seal.]	William Prout,	[seal.]
Benj'n Stoddert,	[seal.]	Robert Peter,	[seal.]
Notley Young,	[seal.]	Ben. Stoddert, for Jno. Warring, by written authority from Mr. Warring,	[seal.]
D. Carroll, of D'n,	[seal.]		
Overton Carr,	[seal.]		
Th. Beall, of Geo.,	[seal.]		
Charles Beatty,	[seal.]		
Anthony Holmead,	[seal.]	William King,	[seal.]
William Young,	[seal.]		

"Signed and sealed in presence of us, (Mr. Thomas Beall making an exception of the lands he sold Abraham Young, not yet conveyed.)

Witness to all the subscribers, including—
William Young,
William Bayly,
William Robertson,
John Suter,
Samuel Davidson, witness to Ab'm. Young's signing,
Benjamin Stoddert, witness to Ed. Peirce's signing,
Joseph E. Rowles, for John Warring,
William Deakins, Jr., for Wm. Prout and Wm. King.
As attorney in fact: Elipras Douglas.

Commissioner's Office, *April* 24, 1834.

I do hereby certify that the above is a true copy from the proceedings of the commissioners appointed by the President of the United States of America, by virtue of an act of Congress entitled "An act for establishing the temporary and permanent seat of the Government of the United States," recorded in vol. 1, in this office.

W. NOLAND, *C. P. B.*

By this agreement, it will be perceived that the proprietors expected great advantages to result to them by the establishment of the city on their lands. The streets and alleys they gave to the public; for the public grounds they were paid twenty-five pounds per acre. What the Government wanted for public buildings have thus been used and occupied. Those lots and parcels of ground which were not required for the public buildings have been disposed of in the following manner: some have been sold, others surrendered to the corporation of Washington, and part are now enclosed by the United States, or lying waste. It is for those lots which have been sold, and the money received, that this pretended claim is set up, under the expressions in the agreement, "shall be joint property between the trustees on behalf of the public and each present proprietor, and the same shall be fairly and equally divided between the public and the individuals, as soon as may be, after the city is laid off."

The question is, what is meant by the word "public?" The people of the District say it is them. I say it is the whole American people. Who were the contracting parties? The commissioners appointed by the President of the United States, for and in behalf of the United States of the one part, and the proprietors of the lands of the other. Who wished a place to locate permanently the seat of their Government? The United States. Who are to use the public buildings? The United States, by the officers of Government. Who paid the twenty-five pounds per acre? The United States. The whole people, in their corporate character and capacity, are the "public" thus referred to. If the people of the District can claim the money for which the lots sold, then the same claim can equally be made to this Capitol, the President's house, navy yard, and other public buildings. The question is too plain for argument. I will only say that there is a boldness and effrontery in the claim, (not to call it impudence,) that is without a parallel.

It is said that the United States pay no part of the city tax; and that is assigned as a reason for the passage of this bill. This claim, if well founded, cannot apply to Alexandria, as the United States own no property in the District south of the Potomac; but, as it applies to the city of Washington, how does the matter stand? A corporation tax is laid on two accounts: one to improve the public ways and other grounds, which the health of the people or the ornament of the city may require; the other for the government and convenience of the people who live in the city. All, or at least a large part of the public grounds, have been improved at the public expense; all the costly improvements of the public squares and other public grounds are at the cost of the general Government. There is not even a convenient footway, or a piece of ground highly beautified and ornamented, which has not been done out of the public treasury. The general Government is greatly ahead of private individuals in improving the public property; and all that could be required is, that it should keep equal pace, in improving their property, with the citizens.

Mr. Speaker, suppose we were to admit, for argument sake, what gentlemen contend for—that the word "public," in the agreement I have read, means the people of this District: then the inquiry presents itself, what is the amount of the sales of the lots which would go and belong to the public? The gentleman from Virginia says about $700,000. Charge the United States with that amount. And the next inquiry is, what credits are they entitled to? The credits are the disbursements of the general Government for this city and District. One million of dollars has been paid to the Ohio and Chesapeake canal; $150,000 for each of the bridges across the Potomac; $100,000 to the Alexandria Canal Company; about $160,000 to the canal running through the city; $130,000 to pave the Pennsylvania avenue. The United States gave to the corporation of this city, lots, squares, and pieces of ground, which this city has sold for about $160,000; about $100,000 for a penitentiary; the expenses of the judiciary and executive officers of the whole District, one year with another, will amount to $10,000; that for thirty-four years amount to $340,000; and last year $70,000 to pay the interest on the Holland debt due by the city. The whole amount, when added up, will stand thus:

Chesapeake and Ohio canal,	$1,000,000
Alexandria canal,	100,000
The two bridges,	300,000
The Pennsylvania avenue,	130,000
Canal in the city,	160,000
Public grounds surrendered,	160,000
Penitentiary,	100,000
Civil government of the city,	340,000
Interest on the Holland debt,	70,000
A jail in Alexandria,	12,000
Gift to the city after the fire,	20,000
Total,	$2,392,000

This enormous sum is below what it ought to be. The small sums expended by the Government for the city I have omitted in making the estimate.

These heavy disbursements, it seems, in the opinions of some gentlemen, will not pay and satisfy the demands of the city and District, which, in the character of debts and demands, are without any foundation in law, justice, or equity. But the following sums are still claimed, and are embraced in bills either in this House or the Senate:

The present bill,	$100,000
Additional subscription to the Chesapeake and Ohio canal,	1,000,000
Interest on the Holland debt for five years,	350,000
Total,	$1,450,000

What have we to expect hereafter, if we now submit to these unjust and unreasonable demands? We will be called upon hereafter, from time to time, to appropriate money, until this canal is finished, which will cost $1,500,000 over and above what has already been expended, and we will have to pay off the Holland debt for the whole District; making, in all, three millions more. I, for one, will resist those claims at their first appearance; and I confidently hope and trust that a majority in this House will display the same determined spirit of resistance, and let the people of this District

know that, instead of being daily fed out of the public crib, they, like the balance of the people of the United States, must make their living in the sweat of their face, and that the people of the United States shall not be taxed to support them. I, for one, Mr. Speaker, enter my protest against such prodigality and profusion of the public money, and, at the same time, so limited and partial in locating the appropriations.

I have said thus much, Mr. Speaker, to the preliminary question of debt, upon which, as I have before said, the passage of this bill is, in part, demanded and claimed of us; nay, some, in urging it, have assumed the haughty and imperious tone of an inexorable creditor pressing an humble debtor.

I have heard something said that this District has strong claims upon the general Government, because the people paid a direct tax during the war: so did all the people of the United States, in the same proportion, and for the same object—protection against a foreign enemy, and to provide for the defence of all. It has also been said that the people of this District, by the consumption of imports, pay a part of the customs: so does the rest of the nation, and for the same purpose, to support the army, navy, and civil list; the benefits of which are equally felt by all. The District has no claims to any part of the public money thus paid in, more than any other part of the Union. It must be recollected by this House, that the people of the several States pay a tax to their State Governments, which this District does not pay. I have, sir, endeavored fairly and impartially to examine each item of this pretended debt, in detail; and also the money we have expended here already, and what we are called on to expend. I know the subject, in those parts of it, is dry and uninteresting. I beg pardon of the House for thus trespassing upon its patience. The present bill has not importance enough, in itself, to justify the consumption of the time of the House; but it is to resist the future claims which will be set up that has induced me to do and say what I have, and which furnishes the apology for so doing. I will now put the question to those State rights gentlemen, and ask them, individually, how can you vote for the present bill, if the claim of a debt set up by its supporters is unfounded, and there is no justice or equity in it with reference to the rest of the Union? It is not taking stock in a company; nor is it making internal improvements, in which the United States are to have any interest after they are made; but simply giving, as a free gift to a private company, for their own use and benefit, $100,000 of the people's money. Have you a right to take the people's money and pay my debts, because I may be embarrassed; or to improve my farm and enhance its value? You will all answer, and say, no; surely not. Then I will again ask, where is the difference between one man asking for assistance, and thirty men in a company? Is there a charm in the word company? That part of the constitution to which I allude reads in these words:

"Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States."

The power to lay and collect taxes, duties, imposts, and excises, is not given to squander the money at will and pleasure, as a spirit of extravagance and prodigality to-day, or whim and wild caprice to-morrow, may prompt us. It would have been unwise in the constitution to delegate such a tremendous power, without some distinct, definite object, to which the money, when thus collected, should be applied. These objects are specified: "to pay the debts, and provide for the common defence and general welfare of the United States." To these objects is the public money to be applied, and none else. The words "general welfare" mean nothing more than the power to effect and accomplish the powers which are necessarily incidental to the expressly delegated powers. If this interpretation be not given to the words "general welfare," then there is no limit; and if Congress should consider that it would be for the general welfare to abolish the State Governments altogether, under the words "general welfare" it could do it. Such a construction of these words cannot be tolerated a moment.

What limit is there to the discretion of Congress to lay and collect taxes, duties, imposts, and excises? The exigencies and wants of the Government, as organized by the constitution. Those wants and exigencies prescribe the limits to, and bound the discretion of, Congress; they are the check and balance wheel in the great and complicated machinery of government. The moment you depart from this construction, then there is no land-mark remaining. It has been said, we can do it for this District, because we have exclusive legislation over it, although we cannot for a State. The power of legislation is one thing, and the power to dispose of the people's money is another. The objects for which the money shall be given are specifically pointed out. To profit individuals alone, or to relieve a man, or a company of men, embarrassed, is not within the enumerated powers, as prescribed by the constitution.

I have now, Mr. Speaker, said what I intended, and replied to gentlemen as far as I deemed necessary, as to the preliminary questions in this case; which are, the debt we owe to Virginia, and that Alexandria had a right to claim it; and also the debt we owed to this District. I have also offered a few suggestions on the constitutional power of Congress to give away the money of the people. Pursuing the order of investigation which I proposed and prescribed to myself when I commenced my observations, the next inquiry will be, what will this aqueduct and canal cost, and who will have to pay it? Then the next point in order will be the necessity of making it, compared with the expense of its construction.

As it respects the cost of the canal and aqueduct, I have no certain data to estimate from. The Potomac, where the aqueduct is proposed to be constructed across it, is fifteen hundred feet wide. I was on the site the other day, examined it, and had it measured. The average depth of the water is twelve feet. The mud at the bottom, before you get to the solid rock, will average fifteen feet. The pillars above the water thirty-seven and one half feet, making the height of the pillars, altogether, sixty-four feet six inches. The canal is about eight miles long, and will require about four locks to let the water into the Potomac at Alexandria. It has several ravines, runs, and branches, to cross. The abutment on the Georgetown side will be about two hundred feet to the edge of the water; and from the Virginia side, about the same distance. What number of pillars are to be erected, on which the aqueduct is to be built, I do not know. If the span of the arches be one hundred feet, it will take fourteen: if the span be fifty feet, twenty-nine. My own impresion is, to make it a good and permanent aqueduct, the arches should be of stone, and not with a greater span than fifty feet. But I am informed the intention of the company is to make the arches of wood, and a span of one hundred feet. A wooden arch will not last ten years, with the action of water and air operating on it. Every person who has ever seen water led to a mill along a wooden aqueduct knows this to be fact. But a wooden arch of one hundred feet span can never bear the weight of water, timbers, and a loaded boat. The water in the canal is to be five feet deep and sixteen feet wide, making eight thousand square feet of water—allowing

sixty-three pounds to the square foot, it will make five hundred and four thousand pounds. A boat with eight hundred barrels of flour will weigh five hundred thousand pounds, and when passing at the rate of three miles an hour, the whole weight of the boat will be on one hundred feet of the arch, for the boat, when thus moving, will not swell the body of the water three feet ahead of the boat. Add to the water and loaded boat the weight of the timbers, which make the span, and there will not be less than twelve hundred thousand pounds on each arch when a loaded boat is passing.

To form an accurate estimate of what the aqueduct will cost, let us examine the report of what has been done with the $100,000 already appropriated, and the work done for it. The account reads in these words:

Statement showing the amount of property on hand at the Potomac aqueduct.

Steam engine purchased in Baltimore,	$2,654 00
Do. do. Alexandria,	2,654 00
Mud machine, pump, gearing, &c.,	1,346 00
Machinery, crane, scows, &c., purchased of Stewart and Martineau,	2,120 00
Pile drivers, steam scows, stone scows, and small scows,	3,623 00
Five horses,	409 00
Hydraulic cement,	4,055 00
Lime,	623 75
Oak piles, sheet piles, and other timber,	7,550 00
Iron, smith tools, &c.,	1,956 00
Cordage,	200 00
Stone quarrying,	4,068 00
Granite for ice breakers, cut to pattern,	3,417 00
Embankment, paid to Roach and Rogers,	13,503 00
Used by Alexandria Canal Company in anticipation of collection of their other funds,	5,155 00
Derricks, blocks, &c., for hoisting large stone,	1,500 00
Slope hauling paid to masons and laborers,	480 00
For transportation of stone to causeway,	1,000 00
Crane, chains, &c., at quarries,	200 00
Quarrying tools,	150 00
Shovels, saws, axes, grindstones, and wheelbarrows,	250 00
Chains for stone slings,	150 00
Ten pumps, at $60 each,	600 00
Twenty small buckets for hoisting out mud, at $4 each,	80 00
Four large buckets at $6 each,	24 00
	$57,767 75
Amount expended,	79,087 00
	$21,319 25
Or, for each dam,	$10,659 62½

WM. TURNBULL, *Capt. U. S. T. E., Supt. Potomac aqueduct.*

January 5, 1835.

A part of the abutment on the Virginia side has cost $13,503, and two coffer-dams have cost $10,659 62½ each. Besides the item of $7,550 for oak pins, short spikes, and other timber for the dams, making the entire cost of the two dams $28,868 35½. These coffer-dams are to be made tight, and sunk down in the water to the bottom; and the water then to be pumped out, and the mud removed clear off, and clean, to the solid rock, before the mason work of the pillars can be commenced inside of them. The chairman of the committee informed me, if I correctly understood him, that a coffer-dam for each pillar would be required. If, then, there be twenty-nine pillars, the coffer-dams will cost $418,288; if fourteen, the cost will be $202,076. If the coffer-dams cost these enormous sums, gentlemen can form some opinion and estimate what the removing of fifteen feet of mud, and the erection of those large pillars, sixty-four feet and a half high, of solid masonry, will cost, well and strongly made. They must be cut out of large and heavy rock, to sustain the weight at such a height from their foundations. After the pillars are finished, the arches and abutments to be made. Here we have a happy specimen of what part of one cost, $13,503, which does not seem to be half completed. $79,087 have been expended of our money, and all that has been done, as far as I could see, is two coffer-dams, and part of an abutment made on the Virginia side; and even a part of this has been taken away to fill up cribs attached to the coffer-dams, to hold them down, from the fear and apprehension that the rise in the river at the breaking up of the ice will take them off. The making of the abutment, and then taking it away again, somewhat resembles Penelope's web. What she wove in the day she unravelled at night. Sir, what is done in the summer is undone in the winter. But it is equally profitable to them if Congress will pass this bill, and pass bill after bill until the work is done. The city will be employed and paid as well for undoing as doing; and more money will be scattered here, which is in fulfilment of all the plans for disbursements in this District. I have no idea, if Congress shall think proper to make this aqueduct, that the same will cost less than a million of dollars. To finish the balance of the canal and locks will cost at least $500,000 more.

The citizens of Alexandria declare that they can do no more; their means are exhausted. The city subscribed $250,000 to the Chesapeake and Ohio canal; borrowed the money in Holland and paid it; and $50,000 have been subscribed by the city to the canal from Georgetown to Alexandria, making a debt which the city owes of $300,000. The citizens have subscribed $80,000. The city tax is equal to one and a half per cent. upon the cash selling price of real property in the city. I make this statement, not to insult the feelings of the people, but to show that the situation of the city is such as to make it evident and manifest to every gentleman here, that we have now two alternatives presented to us, either to stop with what we have done and disbursed, or to expend about $1,500,000 more. I am well aware that the estimates of the engineer, as stated to us, are much below what I estimate the cost at. I have been here a number of years, and have seen public works begun, and seen them finished. The estimates, as far as have come within my observation, are always greatly below the actual cost. We must not forget another fact, which exhibits a melancholy state of things; that it costs the United States, as I will show hereafter, about five times as much to make any public works, as it would individuals or companies. The reasons why these things occur, I will also endeavor to point out in proper time. Those gentlemen who make out estimates are interested in having the work undertaken, and they expect large salaries to superintend the execution of it. The estimates, therefore, must never startle, never must frighten the undertaker, and deter him from the enterprise. The man making the calculation is aware of this; hence the estimates always fall under the cost, sometimes not amounting to one fourth. It is said that the Chesapeake and Ohio Canal Company is pledged to make the abutment on the Georgetown side. That calculation will fail. It is a notorious fact that this company has no funds, and cannot for want of means proceed with their own work. It has been said by gentlemen, in argument, that the abutments will extend five hundred feet into the river, and thereby shorten the

aqueduct; that will not lessen the cost, as the abutments will be as expensive in their construction as any part of the aqueduct. But if the abutment is extended into the river two hundred and fifty feet from the Georgetown side, what will be the effects? Gentlemen must recollect that the aqueduct is at the upper end of the port. The effect is obvious to any man, that the harbor of Georgetown will fill up with mud in consequence of the current being thrown into the middle of the river by the abutment, and a perfect eddy formed in the harbor. We will be called on when the event happens to expend thousands to remove the mud. Having made these remarks, Mr. Speaker, to show what I think will be the cost of this canal, who will have to incur this cost, and how and in what manner it will injure Georgetown, I will next proceed to inquire into the necessity of the work.

It is known to this House, and in full view of this hall, that the canal terminates at Georgetown in a basin, in the edge of the Potomac river. From thence to Alexandria, is eight miles, and from one place to the other is the finest navigable river in America. No current to any extent, a regular ebbing and flowing of the tide. I will ask, and so will every man in the nation who has not a high internal inprovement fever, why make a canal across and then down one of the finest rivers in the world for navigation? To these questions several reasons have been assigned by different gentlemen, who have addressed the House on the other side of the question. Some gentlemen allege that the Potomac cannot be navigated by canal boats, that the waves are too high, and the river too rough. That argument is incorrect in point of fact. There scarcely ever was a time, within my observation, when a canal boat could not pass with perfect safety between Georgetown and Alexandria. The river is in no place between those points a mile wide, little or no current. A canal boat can live in any water that a keel or flat bottom boat could. The fact is well known to all the gentlemen present from the West, that some thousands of those boats descend the Ohio and Mississippi every year, loaded with produce, a distance of from fifteen hundred to two thousand miles. Those rivers are larger than the Potomac, and in them the waves run much higher; besides, they are on the water twenty or thirty days at a time, and cannot pick their time, like a boat going from Georgetown to Alexandria and back again. I am told by gentlemen from New York, that their canal boats descend the Hudson to the city of New York and back again, and that some of the boats navigate Lakes Erie and Huron. My opinion is, that boats can navigate the Potomac between those points as easily and cheaply as the canal. A boat loaded with eight hundred barrels of flour can, with all ease, make the trip down and up in one day. The cost of the hands would not be more than two dollars.

I understood a gentleman in debate to-day to say, it would take eighty hands to navigate a boat from one point to the other. The boat could not furnish room for eighty hands to work on board. The large boats which descend the Ohio and Mississippi are worked by three hands, and frequently they have to encounter tremendous storms. I will tell that honorable gentleman, that I (who have the use only of one hand) will take him, and we two alone, when the tide sets fair, can take a boat with eight hundred barrels of flour from Georgetown to Alexandria in three hours.

Another gentleman has said that Congress is under a moral obligation of justice to make the canal. This obligation he deduces from the fact that Congress, by an act of 1804, directed the causeway to be built from the head of Mason's Island to the Virginia shore, and, in consequence thereof, that channel cannot now be navigated. The House will perceive, from this map which I hold in my hand, that Mason's Island is right opposite to the basin at the termination of the canal; and it is about as easy to cross the river, and go to the lower point of the island, from the basin, as it is to go to the upper. If there were no causeway there, no boat would ever go from the basin up the river one mile, for the purpose of passing down the Virginia shore, when it would thereby increase the distance two miles. As for safety, one passage is just as safe as the other. But it is alleged that the waves would be too high to go down the river on the Georgetown side of the island, to the lower point of it. There is no danger in that part of the river; if there be danger any where, it is at the mouth of Four Mile run, which is within two or three miles of Alexandria. But where is the moral obligation on the general Government to make the canal, on account of that causeway? The river has two channels: the main one by Georgetown; the other, although the smaller of the two, gave vent to a considerable portion of the river.

Georgetown petitioned Congress, and Alexandria consented to it, to make the causeway, and thereby throw the whole river into one channel. In 1812 Congress passed an act to cut a passage through the causeway, which would not cost more than two thousand dollars. Alexandria finally declined to do it, after the act was passed, and that, too, at her solicitation. The reason why she declined to cut it is obvious: the same was useless. But now, when it would not take more than two thousand dollars to remove the obstructions in it, if any, we are called on to expend near two millions to cut a canal in consequence of it.

Another gentleman has, in part, based the claim of Alexandria to have this bill passed in consequence of some votes of Mr. Rush, as Secretary of the Treasury, when voting on the stock of the United States in the Chesapeake and Ohio Canal Company; and also upon observations that passed when the stockholders of that company met on some occasion for the transaction of business. That argument is futile, and has nothing in it. How the vote of Mr. Rush, and a conversation among the stockholders of that company, could create an obligation on us to cut a canal from Georgetown to Alexandria, right by the side of the Potomac, or in any way bear on the question, I am at a loss to know. It is of the same family of that preposterous idea, that eighty hands would be required to navigate a loaded boat from Georgetown to Alexandria. It is just about as absurd, and of as little value. It is proper the canal should stop where it now does. When the farmer brings his produce to market down the canal, and lands it in the basin, he has the choice of four markets—Georgetown, Washington, Alexandria, and Baltimore, when the railroad is finished. That competition will ensure the highest price which can be had. You extend the demand, because you open more markets to the produce of the country.

The people of Alexandria complain that the produce stops at Georgetown. If they will give one cent more in the barrel, they can get it, because one quarter of a cent will take it down the Potomac. If they will give no more, what interest has the farmer to take it to them? Now, it is our business to see that the farmer shall get the best price; but we have no concern if the merchants of Alexandria will give no more than the merchants of Georgetown. Which set of gentlemen shall make the commission on it? It is in fact to the advantage of the farmer, for another reason, that his flour and other productions should stop where they now do. If the lateral canal was made, he might be tempted to take them to Alexandria; for there is a strange idea prevailing with some men, when descending a river to market; they expect to get a better price, the lower they go down; and when they get there, not being able to return, the

competition of buyers ceases, and the produce is in consequence sold lower. This melancholy fact we often experience in the western country.

Another gentleman [Mr. Vinton] said that it was no question now for the examination of Congress, whether the canal ought to be made or not; that question was determined by the Congress of 1832, when the first appropriation was made of $100,000. That argument would be good if the gentleman would first prove to us that the canal, when finished, would be worth what it would now cost to finish it; and, until he proves that fact, the argument amounts to nothing. That gentleman was much more felicitous in debate the other day, when he proved, to my satisfaction, that an intruder upon the public lands in Arkansas, who came within twenty days of being in time to obtain a pre-emption right, was not, in consequence of his intrusion and disappointment, entitled to the first choice of two tracts of forty acres each, any where in the Territory. But he can console himself by this reflection, that Fate has said that a man cannot be always equal to himself.

I have been at a loss to know why the people of Alexandria display so much solicitude to make this canal. I have examined the question as to the practical utility of the navigation of the canal over the navigation of the river, and I can find no solution of it in that point of view. I think I can conjecture the real reason and motive, which by them is kept back; for it would not do to suggest it. It will be recollected that the water in the canal is thirty or forty feet above tide water. Where it terminates, that place can have the benefit of water power, almost to any extent, for mills, and working all kinds of machinery. If the canal is continued to Alexandria, that place gets the benefit of the water power. If it remains where it now is, Georgetown has it. Very little can be used at Georgetown if the canal is extended to Alexandria, for it will not do to let more water into the canal than to create a very slow current; for a current of even one mile an hour will obstruct the navigation against it. There is no feeder to be had between Georgetown and Alexandria, some waste of water will take place, and hence the lateral canal to Alexandria will require all the water in it. If this be the subject of contest in reality, between those two cities, ought the United States to take either side of the contest? Each city is equally entitled to our fostering care and protection, and we should stand aloof in this contest. Georgetown and her citizens have expended more money in the canal than Alexandria and the citizens thereof. If the natural point of termination is there, then let it remain there. At all events, there is nothing in the controversy which will justify our spending $1,500,000 for either side, or interfering at all.

The citizens of Alexandria have urged the passage of this bill, upon this further consideration, that since Congress have purchased out the two toll bridges across the Potomac, one at the Little falls, and the other opposite the city, and have made them free bridges, that now a great portion of the produce from Virginia goes to Georgetown and Washington, which formerly went to Alexandria; and this appropriation, in addition to what they have already had, they claim as an indemnity. This argument is too preposterous to merit an answer, or even to notice, were it not to show the dreadful shifts to which they resort to sustain the bill on the table. What right can exist, based upon such a claim? We furnish two additional markets to the farmers of Virginia for their produce. Alexandria complains because we do not let their former monopoly remain. We have obstructed no highways to that city; we have only opened highways to the balance of the District, free of toll.

Our sympathies are addressed, upon the ground that the trade and commerce of Alexandria have been for years on the decline. It is possible this is a fact, to some extent; but the appearances of the city indicate that it never was a place of much importance. If it were ever considered a city of any magnitude, it was because the other towns and villages in its vicinity were in their infancy and small, but they have outgrown it, and one of them has become the third city in the Union.

Now that the comparison of population and commerce is to the disadvantage of Alexandria, the citizens of that city have taken up an idea that in fact it has got less, when the real fact is, the other cities have grown larger. But if it be true that the city is on the decline, what is the cause of it? Richmond to the south, and Baltimore to the north, owing to their more advantageous positions, have taken away their former exporting and importing business. What remedy can we apply, without injustice to those other cities? None that I know of. Giving this District money will not do any good. You must give the people commerce and manufactures. You must give them that which we cannot impart—industry, enterprise, and energy. The poorest nations in the world are those who follow mining, and nothing else. Look at Spain before the gold and silver of America poured into that kingdom, and afterwards, for the truth of this assertion. Millions of dollars are expended annually in this District by the Government of the United States, including the legislative, executive, and judicial departments, with all the appropriations made by Congress for the benefit of the District, and the sums expended by persons who visit the seat of Government. Yet what do those large expenditures and disbursements profit the people? Nothing. For although there are some persons in the District who are industrious, enterprising, and wealthy, yet, as a mass, the population are poor, wretched, and miserable. The appearance of the District and its inhabitants, instead of presenting to the view and imagination a pleasing prospect, disgusts and sickens the heart. Three millions a year, expended annually in Kentucky, would make it bloom like a garden, and give life and vigor to our agriculture, commerce, and manufactures; but in this District, those large sums expended and disbursed fall as unprofitably on the people as a shower of rain upon upon the great deserts of Mesopotamia, Arabia, and Sahara. We are pathetically told that such is the decline and dilapidations of Alexandria, that it now presents the aspect of a howling wilderness. Nations have their rise and fall, and so have cities. When the causes which have built up cities cease to exist, they must go down; their doom is fixed: Fate has said it, and it will be fulfilled. The once mighty cities of the old world and ancient times tell this afflicting and solemn truth. Where is Thebes, with her hundred gates? Where is Babylon, Nineveh, Persepolis, Palmyra, and Baldec? The besom of destruction and the ploughshare of ruin have swept them from the face of the earth, and scarcely a vestige is left to point where they once stood. We may weep over the fall of friends, nations, and cities, but cannot avert the destiny that awaits them.

I have, Mr. Speaker, before intimated that the importance of this bill could only be discovered by taking it in connexion with the bills which have gone before, and the bills which are to come after it; some of which are now in this House, and some in the Senate. The distance from this city to Wheeling is about two hundred and seventy-five miles. Let us examine for a moment, and see the amount expended in making a highway, by land and water, from one of these points to the other, and that partly owing to the undue influence of the people of this District on Congress.

We have made a turnpike road from Cumberland to Wheeling, a distance of one hundred and thirty-three miles, on which we have expended $3,200,000. On the contemplated canal from Georgetown to Cumberland,

we have expended $1,000,000. From Georgetown into this city, $160,000; from Georgetown to Alexandria, $100,000. We have paid $70,000, the interest due from this city to Holland for money borrowed to assist in making the canal; making in all $4,530,000 already expended. A bill is now in the Senate to appropriate to the Cumberland road $350,000, also to pay the interest on the Holland debt of this city for five years, amounting to $350,000, and a bill in this House to subscribe another million to this canal, and the bill now under consideration, making in all $1,800,000. If this bill passes, the same vote will pass all the other bills now in both Houses, and not only do that, but will be an entering wedge to finish the canal, as I have already suggested, which will cost $1,500,000, and to pay the Holland debt for the whole District, which is $1,500,000. Put the whole sums already expended, those proposed in the bills on the tables of the two Houses, and what we will be called on hereafter to expend together, if we do not now stop, and the amount is enormous, no less than $9,330,000. This whole sum on one route, from this to Wheeling, a distance, as I have before remarked, of two hundred and seventy-five miles. I call upon the honorable members of this House to resist this profligate and prodigal waste of the public money, and so partial in locating the places of expenditure.

There is one consideration connected with this subject that ought not to be overlooked and disregarded by the gentlemen here from the State of Pennsylvania. The imports for the western country, which are of vast extent, and daily increasing with the growing wealth and population of that country, are imported into the cities of New York, Philadelphia, and Baltimore, and from those cities conveyed across the mountains to the navigable waters of the West. Baltimore and Wheeling are the competitors of Philadelphia and Pittsburg for this trade. The competition is a fair and equal one, and both cities, east and west of the mountains, are able to maintain their respective claims and pretensions. In this state of things, I ask gentlemen from Pennsylvania, is it right, just, and fair, that the United States should join with either side in this competition? You will all, with one voice, answer no. Then, I will ask you again, is not the Government of the United States operating to the prejudice of Philadelphia and Pittsburg, and in favor of Baltimore and Wheeling, by expending on the Baltimore route about nine millions of public money, not only to facilitate the transportation of the imports, but by making the route free of toll to a great extent, thereby lessening the cost of wagonage and transportation from the East to the West on the Baltimore and Wheeling line; in consequence of which, the business will leave Philadelphia and go to Baltimore, when, without any interference on the part of the general Government, Philadelphia and Pittsburg could not only sustain themselves in the competition, but maintain the advantages which nature has given them, and they now enjoy? I call upon them to look back and see what has been the injurious effects of our legislation heretofore in relation to the Baltimore and Wheeling route. It has been such as to drive Pennsylvania prematurely, considered with reference to her means, into a system of internal improvements, to facilitate the passage from the East to the West; hence her heavy and enormous State debts at this time. For the truth of these assertions, and this train of reasoning, I refer them to Governor Wolf's message to the Legislature at the present session. One of the gentlemen from that State [Mr. MILLER] says that last session he was opposed to this bill, and a day or two ago he spoke in favor of it. I am unable to account for his conversion. His reasons appeared to me, at least, to be unsatisfactory. I will not say, or even be understood to insinuate, that, in the pathetic language of the gentleman from Louisiana, [Mr. THOMAS,] he could not close his bowels of compassion towards the people of this District, and the good things therein.

I object, Mr. Speaker, to the passage of this bill, and I have opposed the passage of every other bill, purporting to be for internal improvements, this session and the last, on account of the partiality of the Government in selecting the objects of internal improvements. Kentucky pays her proportion of the duty on foreign imports, which is one source of our revenue. The other, the public lands, she has paid not only her proportion in money, but of that part of the purchase price which consists in blood shed in battle, to gain the lands by conquest from the Indian enemy, she has paid more than all the United States besides. In those horrid wars, her best blood has been poured out in torrents, and hundreds of battle fields have been bleached white with the bones of her noble sons. Yet, in this division of public money, what does she get? Not one cent. A majority of her population is opposed to the present administration, and millions expended there would not buy her people. Unlike some other States, Kentucky is not in market.

A small appropriation was once made to take stock in the great national road from Maysville to Lexington. The President vetoed the bill. On the eighth of last January, the party in power met in this city to celebrate the victory at New Orleans, and the extinguishment of the national debt. On that occasion, the veto on the Maysville road was made either the subject of a toast or sentiment, followed by a speech from the chairman of the Committee of Ways and Means, and approved by the united cheers of the multitude there assembled. I was not present, but I was in an adjoining room. I heard it. My blood boiled within me. And is there a Kentuckian here who does not feel the hand of persecution pressing down on Kentucky, and who is not fired with indignation at it? I know, Mr. Speaker, that Kentucky will never get any thing until we have a general system to distribute the excess of public money among the States, according to population, giving to the new States their proportion in addition to what they are now entitled to by compact.

There is a certain part of this House against all internal improvements, on constitutional principles. Those States which receive the benefit of partial appropriations annually, oppose the general system, because they are now getting all. These two parties in this House make a majority. What remedy is there left us? None but this: to oppose all partial systems on the subject; and this will separate and dissever the unnatural coalition which now exists, and will finally result in obtaining a majority for a general system. I am confirmed in this opinion by the vote given the other day upon the resolution of my able and eloquent colleague, [Mr. CHILTON,] who never loses sight of the true policy of Kentucky; which resolution proposed a general system, and was negatived by a vote of this House.

I am in favor, Mr. Speaker, for the reasons just now assigned, of a general system of internal improvement, by a distribution among the States of the surplus money on hand; and this distribution to be made according to representative population. The reasons which I have assigned are applicable to my own State alone. I may be met by this argument, that such distribution of the surplus revenue is unconstitutional. I deny it is so, as to the public lands, the sales of which amount annually to about $3,000,000. These lands are public property, and are to be applied to the public good. No object to which they shall be applied is specifically pointed out, either in the constitution or the deeds of cession. In relation to taxes, duties, imposts, and excises, their proceeds, as I have before said, are to be applied as

pointed out in the constitution. Was not a part of the public lands appropriated to make a road through the Black Swamp, in the State of Ohio? Were not four hundred thousand acres appropriated by the present administration, to cut a canal around the Muscle shoals in Alabama? No thoughts then were entertained of its being unconstitutional. Let the system be carried on out of the avails of the public lands; or if it be extended, amend the constitution. This system prevents the misapplication of the public funds and the waste of the public money; under this system, no servile fawning favorite can be nourished and fattened on the "public spoils." The States will apply their respective proportions to the best advantage, and to objects which need it most. They know much better than the general Government what objects of internal improvement require their first care and attention. There is another consideration in favor of this general system, which ought not to be overlooked. The States will get more labor for the same money than the general Government.

The turnpike road of the United States from Cumberland to Wheeling has cost $3,200,000, a distance of one hundred and thirty-three miles, averaging $24,060 a mile. The friends of the road say it will cost $330,000 more to complete it; and to effect this object a bill is now in the Senate to appropriate the sum required. The Pennsylvania avenue has about twenty-five hundred square rood or perches in it. To Macadamize it and put in curb stones have cost the United States $130,000, making $59.20 a square rood, including curb stones. Kentucky has made as fine turnpike roads as are in America, graded at two and a half degrees, Macadamized with two coats nine inches deep, bridges and all, for $4,500 a mile. The public works of the United States, as far as they have come within my observation, are badly done. The public works of the States are well executed. Those of the United States get out of repair. Those of the States are kept in order. You will ask, and so will the House, how is it possible there should be this difference? The reason, when known, is easily comprehended. Kentucky carries on her improvements as joint stockholder with private individuals. Then the effort is made to have the work well done, and get the value of the money expended in labor judiciously applied. The superintendents and agents of the United States seem to go on the principle of having the work as badly done as possible, so it may have to be done over again, like the Pennsylvania avenue, and to expend as much as will be tolerated. Then there are so many agents under different names, such as engineers, superintendents, commissioners, clerks, &c., employed, who receive high annual salaries, and who are interested in making the most of the job; hence the work progresses slowly; for the moment it is done they are out of business. They all seem to understand their business, which is to handle as much money as possible, and make as much as possible stick to their hands when handling it. I recollect of reading an anecdote which occurred in the reign of King James I. of England. It was fashionable in those days for Kings to have some shrewd, witty, facetious man, to play the King's fool. The fool, in the presence of the King, caused twelve men to stand up in a line; he gave to the first a pound of soft butter, and he handed it to the man who stood next, and so on, until it came to the last man, and when he handed it over for public use, there was not more than one ounce left. The fool remarked to the King: Look, my lord, and see the smallness of the lump since those men have all handled the butter; that is the way, may it please your Majesty, your money goes, when applied to your business and affairs; so much sticks to the hands of your public servants, there is scarcely any left for your service. Just in the same manner is the money of the United States dissipated and wasted. As a happy illustration of the prodigal waste of the public money, I will again call the attention of the House to the cost of the two coffer-dams, $28,868, and the small part of the abutment on the Virginia side, which has been done, $13,582. On the account exhibited, there is another item that ought to attract our attention: we are charged with the sum of 2,654 dollars for an engine purchased of Alexandria to do the work for the benefit of that city alone.

Mr. Speaker, there are other considerations which have great influence on me, not only to oppose this bill, but every other bill which contains an appropriation of one dollar of the people's money, when, in my opinion, the public service does not call for it. Let any gentleman read the history of nations, their rise and downfall, and if there be any fatality which awaits a nation more certainly than anyother, it is this their downward course in increasing the expenses of Government, and, consequently, the burdens of the people. I, for one, at least, desire to see this Government brought back to that simplicity and economy which marked its career in the better days of the Republic, the times of Washington and Jefferson, confining its expenditures as much as possible to the army, navy, and civil list.

The principles which operate to increase the expenses of a Government are but few, in fact two only: inordinate love of power in the ruler, and love of money in the office-holders, and those who seek office. The ruler's power is increased as his disbursements are increased, because he is thereby furnished with the means to buy up and corrupt the people, which is done not by bribes direct, but by multiplying offices, agencies, and employments, and allowing to the incumbents high salaries and emoluments.

I am operated upon by this further consideration: The constitution gives the head of the executive department great power, by many thought unsafe. It is felt in the army, navy, and civil departments, the Post Office and Indian departments, and also in the sale and management of the public lands. The collection of twenty millions of dollars annually, and the disbursing the same, make at least one hundred thousand persons dependent upon his patronage, and who are ready to bend the knee to power, and smile when he is pleased, and weep when he frowns. Such a power, Mr. Speaker, concentrated in one man, is exceedingly dangerous to the liberties of the people in a republican Government. Whenever he chooses, by his influence and patronage, to operate in the election of State officers, and officers to the general Government, he is almost resistless. If he chooses to exercise his powers in this House, he can do it more effectually, and control our decisions more certainly and absolutely, than the King of Great Britain can his Parliament, or the King of the French his Chambers. If, to the powers already enumerated, we give the additional patronage of expending and lavishing upon his flatterers, favorites, and fawning sycophants, five or six millions more, annually, under the pretence of public improvements, we put additional weapons in his hand, and doubly nerve his arm to wield them, by which the liberties of the people may be cloven down.

How many vultures and harpies, all over America, are now preying upon the substance of the people, and are either basking in the sunshine of executive favor, or abusing his misplaced confidence. The power of the Executive has been growing for years; it has now reached an immeasurable size. Its dimensions are colossal, and its height towers unto the clouds. Its frowns appal the gaze its gigantic magnificence has attracted. The stoutest hearts almost quail to behold it. This is not fiction, it is not imaginary, Mr. Speaker. The President of the United States has more real power

this day than any King, Emperor, or potentate in Europe. Reduce it we must, or we are an undone people. If the remedy be not timely applied, in twenty years the days of the Republic are numbered.

Some gentlemen say, check the general Government by the State Governments. You cannot do this without a radical cure of the evils which now exist. When we give our assistant doorkeeper more than a Governor, or a judge of the superior court of a State gets; when the Clerk of this House, or a petty clerk of one of the Departments, gets doubly as much, what is the effect? One universal rush by the people to get into the employment of the general Government. The check of the States is only on paper; it is only nominal, until officers in each Government are about equally paid. The States cannot increase their disbursements; their expenditures are now pressing on their means. What remedy is there left? None, but one; that is, to reduce the pay of the officers of the general Government, and retrench the expenditures and disbursements of the United States.

It has been alleged that the people of this District ought to be the peculiar objects of our kind and munificent legislation, because they have no representative in Congress. When any one of the three cities in this District has business before Congress, its mayor and committees have the privilege of this hall. The people here have more weight in this House than the representatives of almost any State in the Union. The members of Congress associate with them, partake of their hospitalities, and lend a kind ear to their importunities. These means they are not sparing of, but exceedingly liberal. Their attentions seem to increase or diminish as they think they can operate on the members when they have some object in view. When these means fail on particular members, a resort is had to abuse and insult, and not unfrequently anonymous letters are sent to the rebellious and refractory members; some containing threats and menaces; others abuse and vulgarity. By these means and artifices, some members are won to support their measures; and others are deterred from opposing them, from the dread of slander and scurrility. For, as Sir James McIntosh said, in his celebrated defence of the French printer, who was prosecuted in England, at the instance of Bonaparte, for a libel on the then existing French Government, there was no man so low and debased, or so high and exalted, as to be entirely insensible to the approbation or disapprobation of his fellow-men.

It is the opinion of mankind upon the actions of others that is the great regulator of the morality of the world. For man, when let alone, and uninfluenced by the opinions of others, will run into excesses of every description: "his heart is deceitful above all things, and desperately wicked." I am told that some of the people who live in or are now in this city, are so provoked at some of the members of this House, for refusing to give and grant, with a liberal hand, all they ask for, that my honorable friend to my right, from New York, [Mr. MANN,] and fellow-laborer in this good cause of retrenchment, has called down upon himself, from some of them at least, so deadly a hate, that he is not only under the ban of their displeasure, but even some of his old friends are threatened that, if they do not abandon him, they shall be put out of the pale of society.

A few of us here have to bear their cold disdains, scoffs, and contumelies; but I tell my worthy friends, who are deserving public servants, and especially my friend from Pennsylvania, [Mr. BEAUMONT,] now before me, who is so steadfast and unwavering in the good cause of retrenchment and reform, not in name, as is the fashion of the day, but in reality, not to be deterred, but persevere to the last. Rewards are promised us elsewhere. The smiles of our constituents, and, at all events, an approving conscience, of which none can be deprived, who believe they do right. As to myself, their taunts and scorns, I cast back with proud disdain. I have been here a number of years, and always pursued the same policy, never to give away one dollar of the people's money unnecessarily. At the end of the session, with a cheerful countenance and light heart, I journey towards the setting sun. When I reach the top of the western front of the lofty Allegany, I look down upon the western world wide spread out before me. In a moment my imagination views the great valley of the Mississippi, extending from the Allegany in the East, to the top of the Rocky Mountains in the West, and from the frozen lakes in the North, to the Gulf of Mexico in the South; averaging a width of two thousand miles, and a length of twenty-five hundred, as large as half of Europe. Its great variety of climate and unparalleled fertility of soil; its bold and navigable rivers; the rapidly increasing population, already spread over a vast extent; the honesty, morality, and industry of the people; their simplicity of manners, and energy of character; when I compare these qualities with the people left behind, their vanity, show, vain pomp, idle parade, and ridiculous pageantry; their prodigality, their effeminacy of character, and insincerity of heart, my soul swells with becoming pride at the comparison; and turning towards the East, in the language of the dying Christian, I am compelled to say, "Farewell, farewell, vain world, I am going home!"

When Mr. HARDIN had concluded,

Mr. TURRILL said he was opposed to the reconsideration of the bill.

Mr. BURGES advocated its reconsideration at some length.

Mr. SUTHERLAND said, notwithstanding what had had been said by the gentleman from Kentucky, [Mr. HARDIN,] he considered himself a Representative of the people of the District of Columbia, and also the Representative of the people of the first congressional district of Pennsylvania, in the vote he intended to give in favor of this bill. When the cession of these ten miles square was made to the general Government, it was upon a full and fair understanding that the cities therein would have some one to take care of them in Congress. If Alexandria could, to-morrow, go back to Virginia, how soon would she start from her present condition? Before she was ceded to this Government, she had golden prospects before her, but what has been the result? Those prospects ruined, blighted, he had almost said, blasted. But, said the gentleman from Kentucky, when we go back to our constituents, and tell them we have voted away so much of their money, what will they say? This came home. We could say what we pleased in favor of an appropriation in which our constituents were interested, but these Alexandria people have no one in Virginia to take care of them. If they look to the great State of Virginia, engaged in carrying out national improvements, and make their appeal there, they are told they do not belong to the State; if they come here, they are unrepresented. Where, then, were they to look? They could not, as the people of Pennsylvania or New York might, look to their State Legislature, for they had none; and when they came to that House, their only resource, they were to be sneered, as it were, from the door. Mr. S. was not afraid of telling his constituents, when he went home, if they should ask him, how he had voted upon this question, and that he regarded the people of these ten miles square as though they had a right to call upon us to legislate especially for them. The people of Alexandria had no other Legislature than that House, and if that House refused to listen to their appeal, they had no other resource left them. Had we not been told, no longer ago than yesterday, that we had so far forgotten these people, that they were still governed by their

old musty laws derived from Virginia, though that State had now remodelled her own code?

But, let him ask, was it fair to talk about what had been done for the District of Columbia on the occasion of an application by the people of Alexandria? It was true that three bridges had been constructed, but were they for them alone? No; they were for the accommodation of the whole Union, to facilitate the transportation of the mail, and were as beneficial to the people generally as to the inhabitants of this District. Mr. S. said the able and eloquent advocacy of this measure by the delegation of the Old Dominion, reflected honor upon the State, and showed they appreciated the condition of the city of Alexandria. Supposing such an obstruction in the navigation of a river as that which had blocked up the channel of the Potomac had occurred in one of the States, would the people have been without redress? They would not. But we were told that there was no occasion for this work; and by whom are we told so? By the people of Alexandria? No. By the people of Washington or Georgetown, who might be supposed interested in keeping it down? No. Had any one conversant with the subject told us so? No. On the contrary, all concurred in its expediency. Surely no one would pretend that the citizens of Alexandria asked for this appropriation merely that the money might be squandered among them; for they have embarked almost all their means in its success, in the expectation that the work would be brought to their town. Would any one think them fools enough to have embarked their money on the scheme, unless they had been led to expect they should reap some benefit from it? They have done all in their power, and they now come to us, as the people of Virginia would go to their Legislature, or those of his own State to Harrisburg, and ask for aid in completing the work. It was their only place of appeal. Mr. S. said he trusted, looking upon that House as the peculiar guardian and representative body of this District, that they would throw aside their prejudices; and as the constitution had placed it under their peculiar care, they would regard it as they would their individual States, and act upon this measure calmly and dispassionately. He hoped the motion to reconsider would prevail.

Mr. CHINN replied at considerable length to Mr. Hardin, and asked if it was fair, in a question of that kind, to array the honest prejudices of the House against the bill, and to quote the expenditures upon the Chesapeake and Ohio canal, this bridge or that bridge, this work or that work, in which the people of Alexandria felt no more interest, nor had any more voice, than the gentleman himself. The gentleman, also, in the course of his remarks, seemed to advocate what he considered the proper dignity and honor of the State of Virginia, and said that asking this appropriation was offering an insult to her. Mr. C. hoped he would be the last to do any thing tending to affect either her honor, her dignity, or her character. Mr. C. then entered into a general defence of the merits of the proposition, and referred to sundry estimates and surveys, and the opinions of eminent engineers, upon the expediency of the Alexandria canal, together with those of the stockholders of the Chesapeake and Ohio canal, and the corporations of Washington and Georgetown. Mr. C. also read a table of the expenses already incurred, the works completed, and the probable cost of those in progress; showing that the whole could certainly be completed for the amount now asked.

Mr. CROCKETT said we were now within three weeks of the close of the session, and what had we done? Nothing. A great number of bills had been made special orders, and among them one of great interest to his constituents, but they could not be reached on account of the long speeches. Last session seven months were spent in talking, and two months more this session. He had therefore come to the conclusion that this was a better place to manufacture orators than to despatch business. Believing that not one vote on this question would be changed if it were debated seven weeks longer, he moved the previous question.

The motion was seconded by the House: Yeas 128.

The main question was then ordered to be put.

The question "Shall the vote rejecting the bill for the benefit of the city of Alexandria be reconsidered?" was then taken, and decided in the negative: Yeas 103, nays 105.

So the House refused to reconsider the vote by which the bill was rejected.

The House then adjourned.

Thursday, Feb. 5.

JUDICIARY SYSTEM.

Mr. FOSTER, from the Committee on the Judiciary, reported a bill further to amend the judicial system of the United States; which was read twice.

Mr. F. said the bill was one of very general interest. For two months it had been very maturely considered by the Committee on the Judiciary. It made but few changes in the present judicial system, and he thought it ought to be passed at the present session. He therefore moved to postpone its further consideration until Thursday next, and that it be made the special order for that day.

The SPEAKER suggested that a bill of a similar character was reported at the last session, and remained unacted on. He doubted whether it was in order to report the present bill, under the circumstances of the case.

Mr. FOSTER explained the objects of the bill, and contended that its provisions were not analogous to those contained in the bill referred to by the Chair.

Mr. J. Q. ADAMS inquired whether it was contemplated by this bill to add additional judges to those who at present occupied the bench of the Supreme Court.

Mr. FOSTER replied in the negative.

Mr. ADAMS suggested the postponement of the bill to a more distant day, and that it be printed.

Mr. FOSTER modified his motion, by proposing to postpone the bill to Monday week, and make it the special order for that day.

Mr. CLAY remarked that this question seemed to be one of importance. He therefore moved a call of the House, upon which question he called for the yeas and nays; which were ordered, and were: Yeas 34, nays 95.

Mr. FOSTER said, as there appeared to be some difficulty on the point of order, he would move to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill of the last session on this subject, and that the same be recommitted to the Committee on the Judiciary; which was agreed to.

The SPEAKER having decided that the bill just reported by the committee was not in order, it was withdrawn by Mr. Foster, the chairman of the Committee on the Judiciary.

ARMY BILLS.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported the following resolution:

Resolved, That from 11 to 12 o'clock to-morrow morning be set apart to consider the following bills, viz: a bill for the better organization of the corps of engineers; for the gradual increase of the corps of engineers; to appoint additional paymasters; and a bill to continue the subsistence department.

After some remarks by Messrs. JOHNSON of Kentucky, ASHLEY, DICKINSON, and WILLIAMS,

Mr. REYNOLDS moved to lay the resolution on the table; which was agreed to: Yeas 78, nays 63.

DUTY ON FOREIGN COAL.

The House resumed the consideration of the following resolution, offered on Tuesday by Mr. FERRIS:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the duty on foreign coal.

Mr. FERRIS resumed and concluded his remarks in support of the resolution. [Mr. FERRIS's speech has been given entire heretofore.]

When Mr. F. had concluded,

Mr. POPE rose, he said, to submit a motion, which he did with extreme reluctance. He made the motion now, because he should not obtain another opportunity. It related to a subject in which thirteen States of this Union were deeply interested. He should move that the House proceed to consider, in the Committee of the Whole, the bill to authorize the purchase of the private stock in the Portland and Louisville Canal Company.

Mr. CROCKETT hoped, he said, that the House would not change or postpone the orders.

Mr. WATMOUGH said he felt himself obliged to oppose the motion of the honorable member.

On motion of Mr. POPE, the House proceeded to the orders of the day.

Mr. POPE then moved that all the orders preceding the bill to authorize the purchase of the private stock in the Louisville and Portland Canal Company be postponed, in order to take up that bill.

Mr. WATMOUGH asked the yeas and nays; which were ordered.

The question being taken, the motion was agreed to: Yeas 115, nays 76.

Mr. WARDWELL moved to embrace in the motion the bill to continue the office of commissioner of pensions; which was agreed to.

Mr. WATMOUGH rose to a point of order. He wished the Chair to decide whether a bare majority was adequate to the postponement of the orders.

The SPEAKER stated that this was the third time the question had been made. The Chair had decided, and again decided, that a bare majority was sufficient.

LOUISVILLE AND PORTLAND CANAL.

The House then went into Committee of the Whole on the state of the Union, (Mr. PATTON in the chair,) and took up the following bill:

"A bill in relation to the Louisville and Portland Canal.

"*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized and directed, to purchase, in the name of the United States, the shares of stock held by individuals in the Louisville and Portland Canal Company: *Provided*, That each share shall not cost a sum exceeding one hundred dollars.

"SEC. 2. *And be it further enacted*, That, when the said purchase shall have been completed, it shall be the duty of the said Secretary to appoint a superintendent of said canal, whose compensation shall be fixed by law, and whose duty it shall be to take proper care of the canal.

"SEC. 3. *And be it further enacted*, That the tolls to be received on said canal, after the stock thereof shall have been purchased in manner aforesaid, shall be so regulated as to be in no event more than sufficient to keep the same in good repair."

The bill having been read at the Clerk's table,

Mr. POPE, of Kentucky, moved an amendment appropriating $654,800 to the objects of the bill.

Mr. P. then addressed the House, in support of the bill and amendments, as follows:

Mr. Chairman: I feel profoundly grateful to honorable gentlemen for their kindness, in consenting to postpone the orders of the day, to take up the bill under consideration. I will requite their courtesy by being very brief. I should not say a word, sir, but that the bill before the committee is a highly important one. It involves the interests of the inhabitants of an immense region, and is entitled to the grave and respectful consideration of this body. All the citizens of the transmontane States, in greater or less degree, are interested in its fate, and they expect us to legislate upon the subject in a liberal, enlightened, and national spirit. In numerous memorials which have been presented, they invoke the interposition of the national Legislature, to disembarrass their trade of burdens as injurious as they are unrighteous. They tell you that their industry and enterprise are shackled by unwonted taxation; that their legitimate gains are subjected to the exactions of a corporation almost wholly irresponsible; and they earnestly and respectfully call upon Congress for relief. Sir, they have a deep stake in this matter. Their rights, their interests, their feelings, are all involved. Blessed with more than plenty, they are yet debarred a free and rightful highway to a ready market. Their surplus productions must either rot on their hands, or in their transit to market be taxed almost at the will of a licensed corporation—a corporation most improvidently clothed with extraordinary powers, and possessed of that pernicious gift, perpetual existence. Let me not be told, sir, that these formidable powers were derived from an act of the Legislature of my own State. This fact does not render them less exceptionable. The motives of those who passed the act of incorporation were pure and praiseworthy. They intended to do good, although they acted unwisely. In their anxiety to furnish facilities to the navigation of the Ohio river, they went too far. They were apprized of the difficulties and perils which the falls of Ohio presented to the navigator; and they therefore incorporated a company to construct the Louisville and Portland canal. They were aware that there was no surplus local capital, and it was to tempt the employment of foreign means in the undertaking that the act complained of was passed. Be that as it may, the evil is unquestionably inflicted, and it is now the part of wisdom and duty to adopt the best, I may say the only, mode of correcting the error.

Mr. Chairman, if it be a part of the settled policy of this country, that objects purely, essentially, and confessedly national, shall receive the favorable consideration of the Government, the one now under discussion is most eminently entitled to it. Recollect, sir, that it is the busy, the enterprising, and increasing thousands of an immense extent of country, who demand relief—of a district of country which stretches from clime to clime, comprehending within its circuit parts of the States of New York, Pennsylvania, Maryland, Virginia, and the whole of Ohio, Kentucky, Indiana, Illinois, Missouri, Tennessee, Alabama, Mississippi, and Louisiana, and the Territory of Arkansas—of an extent of country which includes within its sweep the "great Father of Rivers" himself, and all his beautiful, unrivalled, and magnificent tributaries. Sir, as the "King of Floods" rolls his rushing and turbid waters to the deep, he bears upon his bosom the surplus productions of all these States and many more, much of which find a way through the Louisville and Portland canal. From its mountain sources to its mouth, the Ohio flows freighted with the exportations of New York, Pennsylvania, Maryland, and Virginia; which States receive, in return, by the same communication, the valuable and increasing agricultural and mineral productions of the far South and West. What object, then, sir, let me inquire, is more national than the one under consideration?

Throughout this wide-spread, far-reaching land, can any one be designated in which so many States and so many people are so deeply interested? Sir, there can be but one answer to these questions.

Mr. Chairman, the value of the annual commerce of the Ohio river is estimated by the committee who reported this bill at five millions of dollars. Recent information and reflection have satisfied me that this estimate is too low. I have been credibly informed that, during the year 1833, there was freighted from the city of Cincinnati produce to the value of four millions. If this information be correct, we may safely put down the value of the annual commerce of the Ohio river, at this time, at ten millions. This immense amount, sir, ought to be sufficient to arrest the attention and enlist the feelings and judgment of Congress in favor of the bill. But if it be not sufficient, let us look into the future, and behold if we can see the events which time will reveal; let us look onward to the period when the forests of the West shall disappear before the axe of the emigrant, when its valleys and its hill-tops shall be peopled with laborious millions; when its mighty rivers shall be dotted, and enlivened, and variegated, with valuable and beautiful gardens, and farms, and manufactories, and villages, and towns, and splendid cities; when magnificent steamers, never out of view, shall, "rejoicing as they go," bear off the surplus products of its soil—and let us inquire if its population will not have a right then to assume a bolder tone, and to demand from the federal Government a dispensation of benefits and encouragement great as those granted to more favored portions of the country. Sir, do I make a wild, unreal, visionary prediction, when I say that this proud day of prosperity is not distant? I will not pretend to foretell the mighty destinies of the valley of the Mississippi, or to portray to the world what is there leaping into existence. But if the lessons afforded by the history of the past give us any right to found calculations upon the future, the lapse of less than fifty years will present the living, moving, and wondrous spectacle which I have depicted. Forty-five years ago, the territory which is now the State of Ohio was a wilderness. Nature there reposed in primeval and uninvaded grandeur, save only when it was disturbed by the prowlings of the wild beast, and the roaming footsteps of the savage. Now it numbers and sustains more than a million of inhabitants, ranks the third State in the Union, and is still hurrying onward in her bright career.

In 1817, Mr. Chairman, when steamboats began to obtain general use on the western waters, the commerce between Pittsburg and New Orleans employed about twenty barges, and one hundred keel boats, generally of small dimensions and capacity. I know not the number now employed in the exclusive trade of those two cities; but I do know that the whole trade of the Ohio and Mississippi, and their tributaries, gives employment to about three hundred steamboats, and more than two thousand flat and keel boats. As population increases in the West, its commerce must increase; and, no matter how much it may augment, it must endure an oppressive and perpetual tax, unless Congress shall see proper to remove it. Sir, the inhabitants of that region feel and know this. They see that their industry and trade are subjected to a most onerous impost, while that of other portions of the confederacy is entirely freed from it. They see that obstructions to the navigation of Eastern and Northern rivers, inconsiderable when compared with the Ohio, have been removed entirely at the expense of the general Government, and no local tax imposed on those who profited by it. They see that a Delaware breakwater has been constructed at the common expense, and Philadelphia and the surrounding country paying no local charges therefor. They know that large sums are annually appropriated by Congress to construct and improve harbors along the seacoast and the lakes, to plant buoys, build and support lighthouses, and no local tax paid by those who gain by the expenditure. Sir, they do not cavil about or complain of these things, but they say that the object of this bill is more national than any or all of these. They think that these acts of favor to our Northern and Eastern brethren give them a right to claim something from the bounty and liberality of their Government. They tell you that the falls of the Ohio constituted an obstruction to the navigation of a river, in the removal of which thirteen States were directly interested, and several others indirectly interested; that the obstruction was only about two miles in length, and should have been removed, as in all similar instances, at the expense of the general Government; that it was done (or rather avoided) by a private corporation, acting under the authority of a charter most incautiously granted; that the corporation has a right, and will, in process of time, levy upon their commerce (for who can set bounds to human cupidity?) an annual tax of at least one hundred and fifty thousand dollars; that, under most disadvantageous circumstances, the company received, in the year 1833, from tolls, the sum of $60,736 92; that this tax is a vampyre which is battening upon their energies; that their trade cannot well sustain it; that it is an unaccustomed and perpetual imposition—and they earnestly call upon Congress for relief. Sir, let me add my feeble voice to theirs in this appeal. Let me invoke this body to lend a friendly ear to their complaints. Look, sir, at the list appended to the report of the Committee on Roads and Canals, and you will find that some of the steamboats are compelled to pay as much as one hundred and eighty dollars for a passage through this canal, and must do this whether freighted or empty. Look at the number of boats that pass the canal, and the amount of toll paid by each, and then answer if the evils complained of are not most grievous and unprecedented. Examine the report, and you will find that the tolls have increased every year; that, notwithstanding the company had to encounter unforeseen difficulties and expense, and to repair and guard against unexpected disasters, they yet divided, for the year 1833, six per cent on the original stock subscribed, and also declared a dividend of three and a half per cent. for the first six months of the last year, both on the old and new subscriptions. Sir, the dividends must increase. The company has the uncontrollable power to make them increase. But suppose they do not, does not the present rate of toll amount to an oppressive impost?

Let me invoke honorable gentlemen to view this subject in a proper light. Let me beseech them to examine it with the liberal and expanded understandings of statesmen. I can assure them that the munificence of Government could not be extended to citizens more attached to their country and its institutions than they are, or more ready to respond to the call of duty. They are enterprising, industrious, patriotic. They ask but for free trade and equal rights--they want no more. That they have been tardy in calling upon you is no objection to their claim. That the Government has already subscribed for a portion of the stock, with the view of aiding the work, is no reason why it should not now purchase the whole stock, and make the navigation of the river free to all, on the terms suggested by the committee in their report.

Let not the claims of our people be prejudiced by the unfounded suspicion that this measure is a trick put on foot by designing stockholders for selfish purposes. I assure this body that such is not the fact. They have no such purpose—they have, they can have, no motive, no inducement, to originate such a scheme. The stock is

nearly at par in the market—yields now about six per cent. per annum profit on the amount invested, and the company have the chartered right to make it yield eighteen per centum per annum. I do solemnly believe that it is, or will be, the most profitable stock in the United States. The stockholders are possessed of the most valuable charter in the country, and they know it. No, sir, it is the people who are not stockholders that have made this general movement, and have loaded our tables with petitions and memorials for relief. The stern dictates of justice require that Congress should yield to their petitions. Sir, let justice be done though the heavens fall. Deny not their wishes. "Now is the accepted time" to grant it, if you mean ever to grant it. The bill precludes the possibility of imposition upon the Government, because it limits the price to be given at one hundred dollars a share. The purchase of the stock will cause no fiscal inconvenience, no sensible effect upon the treasury, because it will be gradual. By occasional purchases the Government will obtain a majority of the shares, and can thus control the management of the corporation.

Let me not be understood as being willing to perpetrate injustice upon those who have risked their funds in the adventure. I mean no such thing. I scorn to wrong either them or others. But I mean to say that Congress should assume such a position that they could announce to the stockholders that the work should be a public work; that private interests should yield to the general good; that, remuneration being first made, it is justifiable to appropriate private property to the public use; that, having the power to prevent the imposition of exorbitant tolls, nay, to reduce them as low as they please, they will feel justified in exercising that power, unless the stockholders will part with their stock at a fair price, and permit a great highway of States to be a free highway. Sir, I doubt not that the stockholders, or a majority of them, will consent to do so. I know that some of them are willing to accede to such a proposition. Why, then, shall it not be done? I have heard it stated, in casual conversations, that, inasmuch as the canal is already completed, and Congress have aided to complete it, by subscribing to $290,000 of the stock, that it is all we should ask. Sir, it is most unfortunate that a private company was ever incorporated for this purpose. The proper way to have accomplished the public wishes would have been to have applied originally and directly to this body: to have stated that the navigation of the Ohio river was interrupted by a natural obstacle: that a vast portion of the country was vitally interested in overcoming this obstacle; that it could be done with safety and success only by constructing a canal, and then demand that, as it was for a nation's use, it should be accomplished with a nation's purse. It would then have stood confessedly upon the same footing as applications to remove snags and sand bars in the Ohio and Mississippi rivers, which, we know, have been removed by the sanction of Congress. Would Congress have refused the application in such a shape? Could they have refused? No, sir, not when the Delaware breakwater, and a thousand other improvements of inferior importance, stand as monuments of the nation's liberality. If Congress would or ought to have done so in the first instance, is there any legitimate reason why they should not now step forward and assume upon the nation the expense of the construction of the canal? I think not. Let me state a case which seems to me to be apposite. We all know that lighthouses are erected and sustained at the common expense. Suppose, under a charter granted by Massachusetts, when a colony, a private company had erected a lighthouse, and, in the shape of tolls, were levying a tax on vessels, to the injury and oppression of the citizens of that and other States, and the parties injured were to apply to Congress to purchase the rights of the company, and free them from the exactions of the corporation, would Congress hesitate to do so? Could they refuse to place the applicants upon the same footing with the citizens of other States who paid no tax for like benefits? Would Congress tell them, you once had a fair claim, but it has been forfeited by the act of Massachusetts? Sir, every sentiment of justice would forbid it. Every impulse of patriotism would prevent it. Let not, then, an unwise act of the Legislature of Kentucky forfeit the undoubted rights of the people of the valley of the Mississippi, but extend to them the same measure of justice that you would extend to the people of Massachusetts.

In conclusion, Mr. Chairman, let me again invoke the committee to give to this subject a fair, liberal, and candid consideration. Let them decide upon the bill under the influence of elevated sentiments. Let them bear in mind that the interests of millions are at stake. Let them recollect that the bill proposes to relieve from taxation, excepting what may be necessary to keep the canal in repair, and pay the requisite charges of superintendence, the commerce that now flows, and which will flow in all time to come, from the navigable sources of the Allegany and Monongahela rivers, and all the tributaries of the Ohio and Mississippi, down to New Orleans, and also to relieve from impost what will be brought from that modern Babel, back to the respective heads of navigation. Let them reflect seriously on this, and then answer in good faith, if the rejection of the bill under consideration will not be attended with manifold evils and crying injustice to the people of that country.

Sir, let Congress act in the premises as becomes the Legislature of a great nation. At the close of the year 1833, there was paid into the national treasury, as the portion of the Government's tolls, $14,000. This will annually increase. Let us disdain, then, to fatten on the fruits of the energies of our fellow-citizens. Let us pass a law authorizing the purchase of the individual stock in the company, and then make an offering of the whole on the altar of the common good. Let this be done with the nation's means; because no State can, will, or ought to do it. Ohio will not do it. Indiana will not do it. Kentucky cannot be required to do it. Her interest in the measure is not greater than that of her neighbors, although the canal is constructed through an elbow, a nook, of her territory. No one of the transmontane States will do it with her separate means. It will never be done with their united resources, because the poverty of many, and the disagreeing, disunited, and divided councils of all, will ever prevent it. Let, then, I repeat, the common purse be opened to remove, now and for ever, the tax imposed on the navigation of a river whose waters, prolonged as they are, would be freely empurpled with the blood of battle, should the country's voice ever require it to flow in her defence.

Mr. BURGES, of Rhode Island, called for the reading of the bill, and it was again read.

Mr. McKIM, of Maryland, inquired whether the gentleman from Kentucky [Mr. POPE] could inform the House what was the present market price of the stock it was proposed to purchase?

Mr. POPE said he did not know precisely; but believed it stood at 96 or 97.

Mr. BURGES then said that, before the House should embark in this new project, he desired to know something more of the facts. It was a new proposition entirely. Nothing like it had ever before been proposed. He wanted to know whether it was a project of the stockholders in this canal, or of the people residing on the Ohio river, and interested in its navigation. He wished farther to understand why the price of the stock had been limited in the bill to 100 dollars per share? Mr. B. had been informed that, owing to the level on

which the canal had been constructed in reference to that of the stream, the bed of the canal was constantly filling up, and must be cleared out every year, or it would soon be obstructed entirely, and become utterly useless; and that it was this which had operated to keep down the price of the stock, that would otherwise have been much above par. If such were the case, it was obvious that the stockholders were at least as much interested in the passage of this bill as the people in the valley of the Ohio. But admitting that the Government should purchase this stock as proposed, those who passed the falls would not thereby be relieved from toll; because the canal must be constantly cleaned out and kept in repair, and toll must be exacted to meet this expense, unless the whole was to be thrown upon the treasury. One thing was obvious; it never could be a source of profit to the Government.

Mr. B. said that he was not actuated by any wish to impose or retain unnecessary burdens on the trade of the West; for he and the people of his State were, in fact, more interested in freeing the western produce from charges of all kinds than those who raised and floated it down the river; for the people of Rhode Island received much of their provisions from the city of Cincinnati. Their pork, their flour, their beef, their meal, were drawn from the great western valley. And if it was true, as was believed by every body to the north, to the south, to the east, and to the west of South Carolina, that the consumer paid the charges on every imported commodity, then certainly they in the East, and all other consumers of the western produce, were more concerned in abolishing these tolls, of which the gentleman from Kentucky complained so loudly, than the gentleman or his constituents could be. As things now stood, the toll was charged in the price of the produce; and, as much of it went abroad to the West Indies and elsewhere, the effect of the bill would be to throw the entire amount of these tolls on the Government and people of this country, instead of letting a part of the amount be paid, as it now was, by foreigners. The tolls at these falls of the Ohio river were like the tolls paid at a bridge; they were like the money paid at Elsineur by vessels passing up the Baltic. There were stated charges, which were paid as a matter of course, and entered as an element into the price of that on which they were paid. Nobody thought of complaining; every body knew that, though they paid the toll at the bridge, they got it back when they sold the goods, and it came at last upon the consumer, as every other charge must, in the end, do. The man who raised pork and sent it to New Orleans for a market, calculated the expense of his corn, his casks, his salt, his labor, the freight, and the toll; and when he got his pork to New Orleans, he summed up the amount of all these items, and adding his profit, thus made up a price. Whoever bought it, bought it with these charges included, and whoever consumed it paid the whole. The people of the West, therefore, had no ground to complain that they had to pay a toll for getting round these dangerous falls of the Ohio. Supposing, however, that the Government should buy this stock, an annual appropriation must be made to keep the canal in repair, or it must soon be choked up entirely. To meet this a toll must be levied. And what would be the next thing? Why, no sooner should the stock be Government property, than the people of the West would begin to say, this stock belongs to the United States; why must we be burdened with paying a toll, as if it was the property of a private company? What right has the general Government to tax the people of sovereign States for the use of their own highway, the rivers which the Almighty God has formed for their use? And here would be a new controversy. The levying a tax upon tea separated the colonies from Great Britain; and a tax upon tea, or a toll on a canal, were much the same thing. The celebrated canal of Languedoc, after being constructed and finished by the Government, was given into private hands, because in no other way would it ever be kept in repair. So with this canal at the falls of the Ohio, unless it was held by individual stockholders it never would be kept clear of the accumulating deposites which must soon render it useless. The House might be assured that these stockholders would never consent, far less ask, to sell out their stock to the Government, if they could make a profit upon it themselves. Why should they? If the stock paid, it would be above par. It was because the expenses devoured the profit, that the stock was below par, and the bill was brought in to sell it to the Government.

Mr. VANDERPOEL said he had voted for the postponement of the orders of the day, with a view to oblige his friend from Kentucky [Mr. Pope] who, he knew, felt great anxiety in reference to the fate of this bill: and he had listened to the very able speech by which he had presented its merits to the committee; but he was sorry to be obliged to say that the arguments of his friend had failed to convince him that the bill ought to pass. The project was, that Congress should buy out one of the canal companies in the West. Now, it was known to every body that there was a class of gentlemen in that House who had constitutional scruples as to the power of the general Government to construct works of improvement within the States: and with such gentlemen it must be a serious question whether the Government had the power to appropriate money for a local object of the kind proposed. If Congress had no power to construct, it would seem that they had no power to buy. This was, in fact, the only point in the case. But his friend from Kentucky contended that Congress did possess the power, because this canal was a national work. Why? Because the produce of a number of the States passed through it. But he would ask whether one tenth part as much produce passed through this Portland canal, at the falls of the Ohio, as did the great Erie canal of New York? And suppose the farmers of the immense region west of Buffalo should come forward and say to Congress, the tolls we are forced to pay on the New York canal are enormous: they are burdensome: it is inconvenient for us to pay them: that canal is a great national object: many States are interested in its being made a free highway: buy out the State of New York. Should, in consequence, a bill be brought into that House for such a purpose, would any man be found to support it? Would it not be scouted out of the House? Yet the argument would be precisely the same. He again inquired whether, if Congress could buy out a canal company, whose stock did not turn out profitable, why it might not as well buy out a turnpike company in the same situation? And if one, why not another? Thus the Government might be called upon to take all the worthless stock in the country. It was proved by experience that no artificial navigation could, in the long run, compete successfully with that which was natural. Although the great canal of New York had proved so profitable that the State had been able greatly to reduce its tolls; yet it was found that produce coming by this channel could not compete in the New York market with that from the banks of the Hudson. This bill proposed to take the modest sum of $600,000 out of the treasury, to buy out a company of stockholders who were allowed to raise their tolls to the tune of eighteen per cent. upon their expenditures, and who yet could not keep their stock above par! He thought the Government had had enough to do with canals. He would sooner see it retrograde than advance in such a career. His motto would be, "backward!" not "onward!" If the people of the

West were burdened, and wanted relief, he would rather vote to give them $600,000 in money than to appropriate it to the purchase of property which must only become a charge upon the Government by bringing a host of agents, sub-agents, and all the usual train of leeches on the treasury. He must vote against the bill.

Mr. MERCER said that he had heard that day more new information than he had ever obtained in one day before. The gentleman from New York in particular [Mr. VANDERPOEL] had informed the House that artificial navigation was always dearer than that which was natural. Indeed? Was it true that the produce which entered the Erie canal at Buffalo cost more to transport it to New York by means of that canal, than it would had it passed down into Lake Ontario, thence down the river St. Lawrence, and so round by sea to the same port? Could the lumber of the North be carried cheaper over the rifts, and bars, and cataracts of the Hudson than by the Champlain canal? If so, then the praises which had been so universally accorded to the wisdom and enterprise of that great State in the construction of her gigantic works of internal improvement were unmerited, and those works constituted but a splendid monument of the folly of her inhabitants. Whether the State would admire such a compliment from her Representative, it was not for him to say.

But what was the real question before the House? It was simply this: whether it was the duty of the general Government to remove obstructions in the Ohio river? [Here Mr. M. turning wholly from the reporters to address himself to the body of the House, what he said was utterly lost to them: and this, unfortunately, from his position relative to our reporters' desk, is so frequently the case, that it becomes impossible to present more than a very imperfect and mutilated sketch of many eloquent and interesting speeches delivered by this gentleman on subjects of our internal policy.] When Mr. M. was again heard, he was understood as quoting the opinion of the Chief Justice of Maryland in favor of the power of the Government to engage in works of this description. He then proceeded to argue that, if Congress might constitutionally appropriate 300,000 dollars to clearing out the obstructions of the Ohio and Mississippi, by removing snags and sawyers, it could, on the same ground, appropriate for removing an obstruction by falls, or, which was in effect the same thing, passing round them by a canal; and, if it could cut and construct a canal, it might purchase a canal already constructed by others. The whole question, therefore, was not a question of power or right, but of expediency and economy. Mr. M. said there was great force in the argument of the gentleman from Rhode Island [Mr. BURGES] as to the preference to be given to private over public proprietorship in works of this kind. Mr. M. had ever been of opinion that the best mode of constructing canals was by joint stock companies; it was the cheapest as well as the best mode: the instance of the Languedoc canal was in point; and the whole argument would be found at large in the history of that magnificent work. Mr. M. said that one of the greatest improvements that could be effected in the Ohio river would be in overcoming the danger of what was called the Indian Chute at the falls of that river: this Mr. M. considered as perfectly practicable, and at a very moderate expense. So confident was he of this, that, if the Government would empower him to do it for a definite sum, (which he mentioned, but which was not distinctly heard: it is believed it was 15,000 dollars,) he would bind himself not to exceed that amount, and yet to complete the work in the most satisfactory manner. Mr. M. here referred to statistical tables to show the increase in the tonnage of vessels annually passing the Portland canal; he dwelt on the great and augmenting value of the trade descending the river, and then adverted to the vexatious delays experienced from the concourse of boats of all descriptions waiting for their respective turns in passing the canal. It must of course happen that the largest boats, freighted with the most valuable cargoes, would often be detained by the priority of small craft of little comparative importance, which was very injurious to the interests of western business. By deepening the channel at the Chute, this whole delay might be at once obviated.

Mr. M. here went into a reply to the argument that Government had been partial in distributing its appropriations for internal improvements, showing more favor to the Eastern than to the Western States; and insisted that though larger sums had been spent upon the Atlantic, yet the avails were eventually shared as much by the West as by any other portion of the Union.

[Of the residue of Mr. MERCER's speech not one syllable was audible to the reporter, as he turned about to address some gentlemen behind him, and continued to speak in that direction until he resumed his seat.]

Mr. R. M. JOHNSON said that he represented a district bounded by the Ohio river at least one hundred miles above Louisville; that his constituents were particularly interested in the bill before Congress, which proposed to purchase the stock held by individuals in the Louisville and Portland canal, by the United States, and to make the canal a free highway for the commerce of the Ohio river; that he considered the object one of a general, and not a local character, and he considered it the undoubted and imperious duty of Congress to purchase the whole canal, and leave it free for the passage of all kinds of boats or other means of transportation; as much their duty as to fortify the city of New York or Charleston, or to construct the breakwater on the Delaware. Mr. J. observed that we had a common country divided into independent States, united by a confederacy, and we should be impartial in our legislation; we should discard selfish feelings; we should discard party feelings; we should discard sectional feelings, in legislating for the trade and commerce of the country. The federal constitution gave to Congress the express power to regulate commerce among the several States, as well as with foreign Governments. The commerce of all the Western States required the free navigation of the Ohio river and all the waters of the West as much and as imperiously as the Atlantic States required buoys, breakwaters, lighthouses, beacons, improvements of harbors, in removing sand bars, deepening the channels for the ships, and fortifications. He said it was as much the duty of Congress to remove the obstructions to our commerce at the falls of Ohio, as it was a duty to remove sand bars, and snags, and sawyers, in other parts of the river; and, if the obstruction at the falls could not be removed, it was our duty to avoid it by purchasing the canal, and making the passage through it free to all, except enough to keep it in repair. He said he had been in Congress a long time, and he regretted to see an indisposition to appropriate money for the West. When any proposition was made to protect and facilitate commerce on the Atlantic with foreign nations, it was natural, from long practice, to say yes; to vote in the affirmative: that was the first inclination of the mind; but when any proposition was made to vote money to be expended in the West, the first inclination of the mind was to say no; to vote in the negative, from habit. He thought it was time to change that habit, and do equal justice to all portions of the country, and particularly to the West. The country to be benefited by this freedom to our commerce from a heavy corporation tax, was fully equal to one half of the United States, and at least ten States of the twenty-four were directly interested, and every State in the Union indirectly interested. Enterprise

of the most meritorious and extraordinary character, was opening several direct and rapid communications between the Western waters and the Atlantic ocean; the route from this city by the Chesapeake and Ohio canal; the route from Philadelphia to Pittsburg, by the canals and railroads of Pennsylvania; and by the lakes on the north, which unite the canals of New York and the State of Ohio; and by a rational, economical, and constitutional expenditure of our common funds upon common objects, in uniting the States, and facilitating commerce between them, we should, in a few years, enjoy a degree of prosperity, strength, and happiness, and love of our whole country, at which now the imagination would be startled. We have lived together, suffered, sacrificed, and fought with each other, long enough to learn wisdom, and to do that which will cement our Union, and secure and perpetuate our freedom; to look at each other as brethren of the same great family, embarked in the same ship, with one common object in view—the happiness of all.

The commerce of the West has been greatly underrated: our progress had been so rapid that the imagination was startled at the reality. In perusing the western journals, it is stated that, at this time, the total length of the rivers of the West, navigated by steamboats, exceeds nine thousand miles; the number of steamboats employed, upwards of eight hundred, a tonnage nearly equal to that employed in our foreign commerce. When we examine into the points where two or three hundred millions of public money had been expended for the last forty years, the West presents, comparatively, a barren waste; not one cent in Kentucky, except in the item of pension, which was paying for the blood which its citizens had shed for our common country. He hoped that this blank in Kentucky would, in part, be filled by the appropriation of a sum sufficient to purchase the canal and make it free.

Mr. BOULDIN said he had voted to take up this bill from courtesy to the mover of it, and with a view to economize the time of the House. But he should vote against the passage of the bill in all its stages. He said it was not necessary for him to say any thing to show his conviction that such works of internal improvement could not be constitutionally made by the general Government. He had no idea of voting for the purchase of any such stock as that proposed by this bill to be bought, and should vote against the purchase upon any terms whatever.

Mr. MASON, of Virginia, said that the present application was one of the most extraordinary he had ever heard since he had been honored with a seat upon that floor. The arguments, also, by which it was attempted to be supported, were of a character which were well calculated to awaken the reflection of the House. The measure itself was novel, and such as involved consequences and led to results of the most serious kind. The Government of the United States was already a stockholder in some works of this kind, and, it must be conceded, out of respect for those who had preceded them, that they had been satisfied that such a measure was in some way calculated to promote the public good, and that the investment thus made was not to be lost. It was now asked that the Government should purchase the stock of another of these canal companies, and he begged gentlemen to reflect that, if they yielded to the present application, it would be impossible consistently to refuse others hereafter of a similar kind. This Portland and Louisville Canal Company had not, it appeared, been yet able, although they had been incorported for a number of years; and though their canal was completed and in full operation, to divide one cent upon their capital, nor even pay their debt.

[Mr. Porx here interposed, and asked leave to correct the gentleman in point of fact. The company had divided, the year before last, six per cent., from which dividend the Government had received $14,000; and for the first half of last year they had made a dividend of three and a half per cent.]

Mr. Mason resumed. He went on the report of a committee which had been laid upon the tables. The statement there given showed that the company, at all events, was still in debt, and that they had realized no profit which was equal to their expenditure. In this view he was borne out by the stock being below par, although from the payment of the public debt, and other concurring causes, a vast amount of capital was in the country seeking investment. Most stocks that were productive were not only at par, but above it. No doubt such would have been the case with this, were there not good reasons for the contrary. Should the general Government become the exclusive proprietor of this work, how could it refuse to assume the same relation to the great artificial communication now in process of construction between the Ohio river and the Chesapeake bay? Or how could it refuse the same thing in reference to the Dismal Swamp canal?

Mr. M. said he had listened with the liveliest satisfaction and delight to the argument of the gentleman from Kentucky [Mr. Hardin] yesterday, who had so clearly shown that the expenditures of this Government ought to be confined exclusively to such objects as legitimately pertained to it; to the army, the navy, and the civil list; and he had hoped that the exposition of the same gentleman would have convinced the House that a measure like the present was extravagant, unauthorized, and foreign to the spirit of the constitution; but in this he feared he should be disappointed. With himself the constitutional objection to works of improvement, by the general Government, had more force than gentlemen in general seemed willing to attribute to it. He should not, however, enter into that argument on the present occasion, (although his opinions in regard to it had long since been made up, and were more and more confirmed by the experience and observation of every day;) but there was a different aspect in which the question of power presented itself, aside from the general argument. By the Legislature of the State of Kentucky, a company had been incorporated to make this canal; they had paid in their quotas of the stock, and finished the work; it was their property; the canal was their real estate; and it was now proposed to the United States to become the purchaser of this real estate. He inquired where was any grant of power in the constitution to make a purchase of this kind? The constitution did indeed allow the Government to purchase land, with the consent of the States in which it lay, but for certain specified ends and uses: these were designated, the erection of forts and arsenals, the formation of dock yards, &c.; but by the constitution, land in the States thus purchased was instantly placed exclusively under United States jurisdiction and legislation. Now, this canal was still under State jurisdiction, and the purchase under this bill does not change it. When an attempt had lately been made to blow up a portion of the work by gunpowder, the Legislature of Kentucky immediately passed an act declaring such an act to be felony; but, if the United States should purchase, as was proposed, the work must pass from the jurisdiction of Kentucky, and be subject solely to that of the general Government, and the laws of the State cease to operate. Mr. M. said he was aware that he held opinions respecting constitutional restrictions which many other gentlemen did not entertain; but in his view the bill involved a much graver question than the mere amount of appropriation, vast in its results as that obviously was; it involved the question of power, in a most objectionable form.

The House, too, would remember that the end now sought was not the accommodation of the trade in the Ohio by the construction of a canal round the falls of that river; that was done; the obstruction was overcome, the canal was finished, the facility was secured. What the House was asked to do was to buy out the stock of a private company at a price over the market value, and make the canal, in effect, a free navigation. As a reason in favor of this, it was urged that it would relieve the trade passing up and down the river from toll; and loud complaints were made that the tax imposed was too heavy. Mr. M. said he had been astonished at such a complaint from such a quarter. The trade upon the river Ohio enjoyed the benefit of large and repeated expenditures from the public treasury, for which its owners were not taxed a single cent. Indeed, it might safely be said that there was not an internal navigation in the Union on whose bosom the products of the country floated as free from taxation as that which was transported on the Ohio. Let gentlemen look at his own State, (Virginia:) the extensive works of internal improvement had all been constructed by individual capital and enterprise, aided by the State; and the farmers, so far from complaining, rejoiced at the opportunity of getting their crops to market, and paid the tolls with cheerfulness and alacrity. The same thing obtained all over the country. Should Congress make this canal a free highway, would it not be bound to repay the State of New York what she had expended for the noble work which conferred upon that great State such immortal honor, a work which she had accomplished from her own resources, without calling on Hercules. There was young Indiana, she too, though in possession as yet but of comparatively infant energies, had projected and was accomplishing a work of the same kind; while Ohio had constructed two canals within her limits, by her own means, and from her own resources. Pass this bill, and all these advances of money must be reimbursed from the federal treasury. For, if the principle were established that Congress should furnish free avenues for agricultural products to market, how could it resist the demand of the States who had constructed them, for indemnity. Thus the Government must assume the purchase of what had cost the people and the States of this confederacy immense expenditures, and the revenue for ages to come would be unequal to the demand. The entire stock of this canal amounted to $945,000, of which the general Government held $290,000. It was now proposed to appropriate the balance and take the whole. He trusted no such measure would be adopted.

His colleague [MR. ALLEN] had advocated the measure as necessary to the prosperity of Western Virginia. He thought that part of his State had no just cause of complaint, on the ground of the toll paid at this canal. But admitting that it was excessive, he was astonished at the proposal which had been made to remove the difficulty. This bill did not propose to make the passage free. Toll to some amount was still to be exacted. And who, he asked, was to regulate its amount? Was it to be fluctuating and contingent? and at whose discretion was it to be raised or depressed? This might be thought a small matter—it was not, in truth, a very great one—but still it was one which, of itself, would be sufficient to determine Mr. M. to vote against the bill.

If public considerations, involving the whole country, required this passage to be made free, let the House do it *bona fide*, and declare it free from all restriction. Let them buy up the stock; keep the canal clear of obstructions; and charge the whole upon the treasury. Believing, however, that Congress had no power to make the purchase; that it would be productive of no public good; that it would forfeit all that security for vigilance in the care and preservation of the canal which individual interest gave; that those who used it had got all, and more, from the Government, in reference to the improvement of the navigation, than they were at all entitled to; that the property would be unprofitable; or, if it were profitable, the owners were entitled to the whole benefit of the enterprise: that the act would lay a just ground of complaint on the part of other companies; and that the mode of doing the thing was, in itself, exceptionable, he should be constrained to vote against the bill.

Mr. DENNY, of Pennsylvania, said he should not enter at large into this debate: some remarks, however, had fallen from the gentleman from Virginia [MR. MASON] which called for a reply. That gentleman thought the Government had no right to make the purchase proposed by this bill. The gentleman must surely have forgotten that the United States owned a part of the stock already. The Government had bought a part; where was the difficulty of its buying the residue? One was as lawful as the other. If the constitutional objection was valid against the one purchase, it must be equally so against the other. It was too late to interpose that objection. What now remained was simply a question of expediency—a question of policy. But this case formed an exception even to the strict notions of the gentleman from Virginia, and of others who, like him, thought all works of internal improvement, by the general Government, unconstitutional. It was not a local work: it was, in its character, strictly national. The gentleman from Kentucky had said that nine States were interested in it: but the statement had gone further: there were no less than eleven States who were thus interested. It removed an obstruction on which goods to the value of thousands of dollars had gone to wreck, and many lives had been lost. The honorable gentleman from Rhode Island [MR. BURGES] had argued against the bill, on the ground that the toll could be no disadvantage to the farmers of the West, because they added the amount of toll to the price of their produce, and received it back from the consumers, a large portion of whom, according to that gentleman, were foreigners. Now, it was plain the honorable gentleman knew but little of the commerce upon our great Western rivers. A very small portion of the produce which floated on them to a market ever found its way out of the country. The great amount of consumption was by our own citizens. But did not the gentleman know that the toll, if added to the price of the goods, went to injure the competition of such produce with that which came to the same market free from this charge? Those who lived on the Ohio above them had to pay the toll upon all the cotton and sugar which came up from below. Among other products which came up, and which were charged with this toll, was a large amount of fish drawn from the Eastern States, so that the people of New England, as well as those of the West, were interested in having this canal made a free highway. The amount of toll proved a very heavy tax. The cargo of a single boat often had to pay over a hundred dollars, sometimes as much as one hundred and seventy-six dollars. This was not paid back by foreigners; for more than three fourths of all this produce was consumed in the home market, while at the same time many of the most valuable importations from abroad were, in the same way, enhanced in price to the American purchaser. The gentleman from Virginia objected to the bill because it proposed still to retain sufficient toll to keep the canal in repair. If that gentleman would move an amendment providing that it should be kept in repair by the general Government, Mr. D. would have no objection, and would vote for it. But he thought that this work should be placed on the

same footing as the Cumberland road. Those who enjoyed the benefit of that improvement never thought of complaining that they were required to pay toll for the use of it. As to the amount of toll to be paid at the canal, that might be regulated by the Secretary of the Treasury, or by an agent approved by him, and it must be governed by the expense of the repairs. Mr. D. concluded by reflections on the great extent of the interests that would be affected by the bill, whence he argued the national character of the improvement.

Mr. HAWES, of Kentucky, said that he had no wish to oppose this bill, and should not have addressed the committee did not justice to himself imperiously demand it. When a member on that floor had been requested by a unanimous vote of the Legislature of his own State to perform a certain act, he might not refuse on light or trivial grounds, and when, especially, the professed object of a measure was to benefit his own State, he owed it to himself, should he vote against it, to assign good and valid reasons for so doing. Such was his own unpleasant situation on the present occasion. Ever since he had had the honor of a seat upon that floor, he had held, and had avowed the opinion, that it was his duty to oppose all appropriations by Congress for works of improvement within the States, and he could not now forsake the principles he had ever entertained. He knew perfectly well that it would seem strange to the Legislature of Kentucky, as well as to his own constituents, that he should vote against such a bill as this, yet the course that he had marked out for himself demanded it, and he could not do otherwise. He knew how advantageous a free navigation of the Ohio river would be to the citizens of all the Western States, and he did not doubt the whole West would vote for this bill. But he was well persuaded that the federal Government could not accomplish works of this kind with as much economy as individuals who are stimulated by their own personal interests; and it was his belief that, if this bill should pass, the consequence would be that this canal would become choked up and useless; and the navigation of the river, instead of being rendered free of cost, would be entirely destroyed. It seemed a maxim with some gentlemen, that the Government could never be injured by appropriations; the more money it gave, the better; but he was not one of those who held this opinion. He stood there to guard the treasury of the United States against violation. The stockholders in this canal, so long as it remained private property, were interested in keeping it in repair. If it should be choked up, the tolls would cease. But let Government once purchase the stock, nobody would any longer have a personal concern in keeping up the repairs, and he would venture to predict that, in two years from this time, the obstruction of the river at Louisville would be just as great as it had been before the canal was constructed. Such was the usual history of all works belonging exclusively to the general Government. Mr. H. said he was very sorry to find himself thus under the necessity of acting in direct opposition to the wishes of his own State, but it was impossible for him conscientiously to act otherwise; and he hoped the reasons he had given would be deemed satisfactory as well by the House as by his own constituents.

Mr. PEARCE, of Rhode Island, said that, happily he was not under the same embarrassing circumstances as the gentleman who had just taken his seat. He had received no instructions on this subject. How he might act in the like case, he could not now say; but he rather thought that, if the instructions had been unanimous, and the object to which they related good in itself, he should obey, though in contrariety to the principles that he had previously acted upon. In allusion to the remark of Mr. Mason, he said he hoped the House would not suffer its attention to be drawn off by extreme cases not now before them, and such as they would, in all probability, never be called to consider. They were not now asked to remunerate the State of New York for constructing the Erie canal, nor to purchase out the stock of the Dismal Swamp canal; nor to buy out every turnpike company whose stock was unproductive. It was not likely that any such application would speedily be made to them, and nothing was easier than to conjure up spectres and bugbears which had no existence but in the imagination. There was a certain portion of that House which always had urged, and probably always would urge, constitutional objections to works of internal improvement by the general Government. It could not be helped, and he blamed nobody; but he would ask whether, if it had been proposed to appropriate even a million of dollars to remove the falls on the Ohio river, was not the object one which would warrant the expenditure, and would not such a bill have readily passed that House? Now, if the House could do this directly, why could they not do the same thing indirectly? If the one was constitutional, why was not the other constitutional? If constitutional to make a canal, why was it not constitutional to buy a canal? If constitutional to remove shoals and sand bars in a river, why was it not constitutional to remove the falls of a river? The gentleman from New York [Mr. Vanderpoel] could not vote for this bill, yet how did the gentleman vote for the bill to remove the overslaugh? It was too late for gentlemen to urge such objections. It was too late for the Government now to retrace its steps. It was too late to condemn what had been sanctioned by every Congress, and by every Executive. One gentleman had said that nine States were interested in this bill. Another had said that eleven States were interested in it; but Mr. P. insisted that every State in the Union had an interest in it. The tolls at Louisville were taxes, not on property, but on household gods. It was a tax, not on beef and pork, but on men, and women, and children. Never had there been such a stream of emigration to the public lands of the West as could be shown from the records of the land office within the last two months. These settlers almost all came from the Eastern and Middle States. The toll was a poll tax, and the whole Union was interested in having it abolished. It impeded, besides, another important interest. He meant the interest of ship building on the upper Ohio.

In 1804, the people of his own town, after calculation and inquiry, had found it their interest to send an agency to Marietta to make the experiment of contructing a ship at that port. It had been built accordingly, and on terms so low that it would have turned out a very profitable speculation had not the vessel been hogged (as the term was) in passing the falls of the Ohio, by which she was so much injured as to frustrate the whole plan. The canal had removed this danger, and were the expense of toll taken out of the way, ships might still be constructed on profitable terms both at Marietta and even at Pittsburg. This would be a direct benefit to the Eastern States. The toll was now enormous, and, according to the charter of the company, it might be doubled, and even trebled. Nor was this unlikely to happen; for the present arrangement had been only assented to by way of compromise between two opposing parties, under Messrs. Wickliffe and Clarke, at the time the company was incorporated. The country had no security that they would not insist on their extreme right, which allowed them to raise the toll to the amount of eighteen per cent. on the capital expended.

Mr. McCOMAS said that he should be under the necessity of asking the indulgence of the House a few minutes, to enable him, in a brief manner, to present his views to the committee on the subject now under con-

sideration. It was a subject that deeply involved the interest of a very large portion of his constituents. He stated that the Ohio river was the great western highway to market; it was upon that river that all the agricultural, mineral, and manufacturing productions of the trans-Allegany country were carried to market. He said the gentleman from New York [Mr. VANDERPOEL] is very much mistaken when he supposes that there is more produce passing through the New York canal than passes down the Ohio. Without, Mr. Chairman, attempting, in the smallest degree, to detract from the merits of that spendid canal, that reflects honor upon the legislative councils of that State, he (Mr. McC.) would in his place state that he believed there was at least ten times as much passing annually down the Ohio river. The gentleman seems to have forgot that nine States of this Union bordered on the Ohio river; that it is the great channel of trade, and that it connects itself with the most extensive rivers on the globe; all of which intersect and diversify a region unsurpassed in fertility and beauty, and teeming with the immense productions of an industrious and increasing population. Mr. McC. said that the growing energies and increasing wealth of that country could be best ascertained by a reference to the report of the canal company, dated the 6th of January, 1834. From that report the committee will see that, in 1831, there passed through the canal 406 steamboats, and 421 flat and keel boats, carrying 76,323 tons of freight; 1832, 453 steamboats, and 179 flat and keel boats, carrying 70,109 tons; and, in 1833, 875 steamboats, and 710 flat and keel boats, carrying 169,885 tons, showing an increase in a single year of 99,776 tons; and that, too, at a time when the canal had not obtained general use, and during a period of considerable commercial embarrassment.

Mr. McC. said the chairman would recollect that at least one half of the produce and merchandise that were annually borne on the bosom of that beautiful stream did not pass through the canal, but the owners availed themselves of a suitable tide, and passed directly through the great falls. He said that the Ohio river ought to be regarded as a great national highway, free for all to use without being subject to so enormous a tax. He said he would state for the information of the committee that, in one single county in his district, there was manufactured annually at least two million bushels of salt. A great portion of this salt had to pass through this canal, as almost the entire valley of the Mississippi is dependent on the Kanawha salines for their salt. Mr. McC. said if the chairman would take the pains of examining the report, he would find that one single steamboat, by the name of Uncle Sam, had to pay $187 56 for passing through this canal. He asked if it was fair to tax the industry of so large a portoin of a nation for the purpose of sustaining any private corporation whatever.

Mr. McC. said his colleague [Mr. MASON] seemed very much alarmed. He thinks the proposition of the gentleman from Kentucky one of extraordinary character; the most so of any that has ever come before Congress. He says it will be the establishment of a new principle, unknown to the House. He seems to think that the constitution is in imminent peril. If the gentleman's views are correct, we should pause and reflect before we commit the rash act; nay, sir, we should promptly reject the bill. For, sir, I am one of those who think whenever that sacred instrument is departed from, either by the legislative, executive, or judicial departments of this Government, that the liberties of the people are endangered. But let us examine into this matter; the case is not so hopeless as the gentleman may suppose. The gentleman belongs to the administration party, who claim the exclusive merit of reviving the doctrines of Mr. Jefferson. It is admitted by all that there are works of a national character. The great difficulty seems to be to find the proper point of distinction between national and local improvements. However, the President has put that question to rest; he has ascertained that below ports of entry is national, and above ports of entry is local.

This being the doctrine of Mr. Jefferson, I hope that we shall even get the support of my honorable colleague, [Mr. MASON,] as Mr. Jefferson is often quoted as a text-book in this House. Mr. McC. said he should look for it if he brought the case within the rule, and this he could certainly do, for the city of Pittsburg was a port of entry, and the obstruction to be removed was between that port and the seaboard; therefore, if the distinction of the President can be relied on, it is a national work. The friends of this bill support it on the ground that it is a national work, and not a sectional or local improvement. From the sources of the Allegany to the Gulf of Mexico, every State, not one excepted, which is connected with the Ohio and Mississippi, are directly interested, and many of the Atlantic States and cities are indirectly interested, which they evince by the spirit of rivalry they manifest in the construction of canals and railroads to compete for that trade. The products of Pennsylvania, New York, Ohio, Virginia, Maryland, and Kentucky, consisting of the products of the soil, fisheries, and manufactures, pass down this river, and encounter this canal at the great falls. They receive as a return load the agricultural and mineral productions of Tennessee, Missouri, Illinois, Mississippi, Alabama, and Louisiana, and other Southern and Western States. As has been well said in the report of the committee, it will be seen that this vast and increasing commerce is subject to very unjust taxation.

Mr. McC. said his colleague dwelt with great earnestness upon the fact, that it was establishing a new principle for Congress to purchase stock in a canal company after the work was finished. He said, for his part, he could not see that it involved any principle whatever. If the federal Government had the power to commence and erect a canal for national purposes, she certainly had the power to purchase a canal, when made, to effect the same object. If this was not true, it would appear that there was some magic in works made by the federal Government; that its merits consisted in the agents that completed the work, and not in the utility of the work itself when completed. He seems to be very much alarmed at another aspect of the subject. He says many other companies may claim to have works of a national character, and demand the right to surrender them up to this Government. He mentioned, Mr. Chairman, two incorporated companies of this character in our native State: those are the James River and Kanawha Company and the Dismal Swamp Canal Company. I think, sir, if the gentleman had reflected coolly on this subject, he would have seen no danger from that source. Sir, what claim has the Dismal Swamp canal to the character of a national work? It has not the smallest. Sir, it connects itself with the Roanoke, a stream that has no pretensions to nationality, less susceptible of navigation than many of the tributary streams of the Ohio. As an evidenee of that fact, the produce on the river above Weldon, at the junction of the Petersburg railroad, leaves the river and takes the railroad, and finds its way to Norfolk by way of James river. If this work has any claims of a national character, why is it the people of Portsmouth and Norfolk are ready to abandon it, and make a railroad direct to Weldon, to compete with the Petersburg Railroad Company for the upper trade? Sir, the gentleman need give himself no uneasiness on that subject. He may also rest secure there will never be any application to transfer the James River and Kanawha Company to the federal Government. The James

river does not penetrate more than half way through Virginia, let alone washing the shores of nine States in this Union. Mr. McC. said that the doctrine advanced by the gentleman from Rhode Island, that the paying tolls at the canal was no disadvantage to the producer, that it was the foreign consumer that paid the cost of transportation, was, in his opinion, without just foundation. The gentleman overlooks the fact that a great portion of this commerce is a mere barter between the upper and lower country. His doctrine is not true, as applied to foreign markets, unless he can prove that we have a monopoly of the whole trade. For example, our flour has to come into competition with the flour of other countries. We are compelled, without any regard to the cost of transportation, to be regulated by the flour of those countries. Does not any man see at once that the cost of transportation is paid by the producer, and not by the consumer? The merchant that ships our flour tells us he cannot afford to give us as much for it, as all the cost of transportation comes out of his profits on the sales. Mr. McCOMAS appealed to the friends of the administration to be consistent with themselves, and to sustain the views of the President. He said that he would remind the committee that millions of dollars had been spent on the seaboard in making fortifications, lighthouses, breakwaters, &c., when but a very small portion of the public money had ever crossed the Allegany mountains. He thought it but an act of common justice to the West for eastern gentlemen to grant the appropriation. They should remember that western men are their brothers; that westen men sustain the burdens of this Government in time of peace, and fight her battles in time of war. Though they may not have as many of the comforts of life as the people of the East, yet a more patriotic people does not breathe American air than lives west of the Allegany mountains. Mr. M. said he had now closed his remarks, and he hoped a proposition so reasonable would find favor from all parts of the House.

Mr. FILLMORE rose to inquire of the gentleman from Kentucky [Mr. POPE] whether the charter of the company did not require that its officers should be stockholders. If this were so, and the United States should purchase out the stock, the charter must be destroyed; for the company, owning no stock, could have no officers; and in that case, by what title could the United States hold the property, and by what authority could they exact any toll?

Mr. LYTLE, having obtained the floor, moved that the committee rise; but withdrew his motion at the request of Mr. WARDWELL, when a contest arose about the consideration of other bills by the committee.

The order of business having been agreed upon,

Mr. POPE stated that he had examined the charter, and that the difficulty suggested by the honorable gentleman from New York [Mr. FILLMORE] did exist; but it could be obviated by a conditional clause in the bill providing for the difficulty.

The question was now taken on the amendment proposed by Mr. POPE, appropriating the money necessary to make the purchase of stock, and decided in the negative: Ayes 59, noes 71.

Mr. POPE moved an amendment respecting officers of the company; which also was rejected.

The committee thereupon rose and reported the bill, together with some others which had been considered, to the House.

In the House, Mr. BARRINGER suggested that there had been some error in the reporting of the bill, since Mr. LYTLE had obtained the floor with an intention to address the committee. The understanding had been that this bill should have remained in committee.

The CHAIR said that the bill having been reported, there was no other course to get it back into committee but to move that it be recommitted.

This motion, however, was not made.

Mr. BARRINGER then said that it struck him that, if this bill should pass, it laid the foundation for purchasing up the stock of every canal and railroad in which more than one State should have an interest. Gentlemen might as well bring in a bill to purchase the great Erie canal in New York, and make it a free way. The same argument would justify the one as the other. Ohio and all the Western States were interested in the use of that canal, as they were in that of the Ohio river. Was it right that their produce should be taxed on the one canal and not on the other? Why must their produce be taxed if it travelled eastward, and not if it travelled southward? The same arguments would lead to purchasing out the stock of the Chesapeake and Ohio canal. How could Congress grant the one and refuse the other? Were they not bound to mete out equal justice to all? Government gave the State of Alabama 400,000 acres of choice land to aid in the construction of a canal round the Muscle shoals. The Southern and Western States were all interested in that canal, and it was ten times the length of this Louisville and Portland canal, and the toll would have to be in proportion; yet who complained of paying toll on that canal?

Mr. B. said he could not but admire the argument of the gentleman from Kentucky, [Mr. HAWES.] The disinterestedness which that gentleman had manifested did him the highest honor. He fully agreed with him in the belief that, as soon as the toll should be abolished, and the canal become public property, the whole work would speedily go to dilapidation and ruin, and the individual loss which would consequently be experienced would far exceed the whole amount of money that had been paid for tolls from the commencement. Mr. B. was utterly opposed to the bill. He considered it the entering wedge to an expense so great that none could conjecture its amount. It established a principle which would bind the House to purchase every work of a national character which its owners wished to sell. It was not the amount of money, it was the principle, which alarmed him. He hoped the enacting clause of the bill would be stricken out.

On motion of Mr. LYTLE the further consideration of the bill was postponed till Monday next.

COMMISSIONER OF PENSIONS.

The bill continuing the office of commissioner of pensions coming up next in order,

Mr. McKAY proposed to amend it by transferring the superintendence of its duties from the Secretary of the Treasury to the Secretary of War; which was agreed to, and the bill was ordered to its third reading.

The House then adjourned.

FRIDAY, FEBRUARY 6.

FUEL FOR THE POOR.

Mr. McVEAN offered the following resolution:

Resolved, That the Committee on the District of Columbia be directed to report to this House the amount expended by said committee under the resolution of the 6th of January last, authorizing and instructing them to ascertain the amount of fuel that might be necessary for the relief of the suffering poor of the city of Washington, and to place the same at the disposal of the corporation for that purpose; and, also, that said committee be instructed to desist from further expenditure under the authority derived from said resolution, and that said resolution be expunged from the journal of the House.

Mr. EVANS demanded the question of consideration upon the resolution.

Mr. HAMER called for the yeas and nays; which were ordered.

Mr. McVEAN moved a call of the House; which was rejected.

Mr. McVEAN appealed to the gentleman from Maine [Mr. EVANS] to withdraw his motion, in order to permit him to state the reasons which had induced him to offer the resolution.

Mr. EVANS thought, he said, that the gentleman had better withdraw his resolution. But if he would strike out the last clause of the resolution, providing that the resolution of the 6th of January should be expunged from the journal, he would withdraw the motion.

Mr. McVEAN said that, at the suggestion of several gentlemen around him, he would modify the resolution by leaving out the last clause.

Mr. EVANS withdrew the motion for the question of consideration.

Mr. WILDE renewed the motion for the question of consideration.

Mr. HAMER called for the yeas and nays on the motion, and they were ordered.

Mr. J. Q. ADAMS rose to offer some remarks on the question, when

The SPEAKER pronounced that it was not in order to discuss it.

The question being taken, it was decided in the affirmative: Yeas 124, nays 54.

So the House agreed to consider the resolution.

Mr. EVANS was not, he said, desirous that the expenditure under the resolution of the 6th ultimo should be continued to be made. The emergency which originated it had gone by. The objection which he had to the resolution as it was at first offered was, that it proposed to expunge from the journals of the House a resolution which it had adopted. He was opposed to the resolution as it now stood, because it cast a censure upon the House for having adopted the resolution of the 6th. It used the phrase "purporting" to authorize, and "under color of authority," as if the resolution of the 6th contained no authority. He proposed to amend the resolution by striking out the word "purporting," so as to read authorizing and instructing, and by striking out "under color of."

Mr. McVEAN opposed the motion to amend, as it would, he said, defeat the object of the resolution. It was not his purpose to reflect, either upon the course of the Committee on the District of Columbia, or upon that of the House, or any member of the House, but he believed the resolution of the 6th January was passed without any authority, and was a palpable infraction of the constitution, which required that no appropriation of public money should be made but by law. The resolution of the 6th of January was not a law. It was a separate regulation of this House, and, in his opinion, was as inoperative as if it was merely the dictum of an individual member of the House.

The appropriation made by this resolution was paid out of a fund which was set apart for the contingent expenses of the House. It might be proper to have a contingent fund to defray the expenses attending the transaction of the proper legislative business of the House, though such fund was liable to great abuse. But he would ask whether the support of the poor formed a part of the necessary expenses attending the discharge of the legislative business of this House? It was too absurd to be maintained. If the House had the right to support the poor, they had also the right to educate the poor, and to establish colleges and asylums, for their reception, instruction, and care. He was well aware that this was a small matter, and that the resolution was adopted as a charitable deed. But charity did not excuse or justify a breach of the constitution.

Mr. CHINN said it was due to himself and to the committee to make a brief statement to the House. For himself, he would say that he voted against the original resolution of the House, because, however much his feelings might have been enlisted, he did not consider himself authorized to vote for it. For the Committee on the District of Columbia, he would say that, when the original resolution of this House was taken up by the committee and considered, they found that the direction to them was positive; that they had no discretion, except as to the amount; that they had no right to disregard the positive command of the House. They therefore made the proper inquiry of the city authority, and upon receiving an answer, showing an appalling degree and extent of distress, and that one hundred and fifty cords of wood were wanted, the committee directed them to draw upon the Clerk of this House for fifty cords, upon two occasions, amounting in all to one hundred cords. This was during the recent season of intense cold. Since that, the committee had done nothing, nor did he believe that they intended to do more under that resolution, which was for "immediate relief."

Mr. McKENNAN said it seemed to him to be now too late to effect any good purpose by this proposition. The proper time to urge the constitutional objection to the resolution was when it was under consideration. Now that it had been passed, and the expenditure authorized by it made, and the poor relieved, it seemed to him to be idle to attempt to urge any objection to the resolution. The committee had stated what they had done; and the whole amount of wood which they appropriated under the resolution did not allow more than sixteen cords for each ward of the city. The sufferings of the poor in this city, during the late severe spell of cold weather, were of the most heart-rending character, and he apprehended that the constitutional scruples of the gentleman from New York would have been removed, if he had listened, as the committee did, to some of the details of their sufferings, as stated by the guardians of the poor of this city. In one instance, a family was visited by one of the guardians of the poor, consisting of five children, and their parents. The father was lying on a bed of sickness—not a bed, for there was none in the house—but in a sack of straw, into which he was placed, to prevent him from freezing. They were wholly destitute of fuel, and must have perished with cold but for the relief afforded them. It was not the intention of the committee to act any further on the subject, as the emergency had passed away. Believing that the resolution was unnecessary, and that its consideration would be a waste of time, he moved to lay it on the table.

Before the question was taken, on motion of Mr. BROWN, the House proceeded to the consideration of the orders of the day.

The House then went into the consideration of private bills, on which the remainder of the day was spent; when

The House adjourned.

SATURDAY, FEBRUARY 7.

EXPEDITION TO THE SOUTH SEAS.

Mr. PEARCE, of Rhode Island, from the Committee on Commerce, reported a bill to provide for an expedition to the Pacific ocean and the South seas; which was read twice, and committed to the Committee of the Whole on the state of the Union, and the report and accompanying documents ordered to be printed.

Mr. PHILLIPS subsequently, in the course of the day, submitted a motion to print 2,000 extra copies of the above report. It was not intended, he said, to act on the subject at the present session, but the report was designed to spread information on the subject among the members of the House, and their constituents.

The motion lies one day, of course.

DRAUGHTSMAN TO THE HOUSE.

Mr. SCHLEY, by consent, submitted the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of abolishing the office of draughtsman to the House of Representatives, and discontinuing the annual expenditure of fifteen hundred dollars now paid to that officer.

Mr. McKENNAN said he would like to know the reasons which had induced the gentleman from Georgia to offer this resolution. Several years ago, the office of draughtsman had been, after much discussion, abolished. It had subsequently, however, been found necessary to restore the former order of things, and to reinstate this officer of the House.

Mr. SCHLEY said it was true that this office, upon consideration, had heretofore been abolished, and subsequently re-established, for what reason he knew not. The individual who occupied this office was daily engaged in reporting the proceedings of this House for a morning paper of this city, while a gentleman, by the name of Burr, was employed in preparing those maps for the Committee on the Post Office and Post Roads which it was the peculiar duty of the draughtsman of the House to perform. What would be the extra expense thus incurred, he knew not; but presumed it would exceed $1,500. He saw no necessity for continuing this office, if it was necessary to employ another individual to perform its duties, while the incumbent was employed as a reporter for a newspaper. His attention had been drawn to the subject by the fact that Mr. Burr had been employed to execute the necessary maps required by the Committee on the Post Office and Post Roads. He could not remain silent, and see such a wasteful and prodigal expenditure of the public money, without interposing an objection. He was aware of the facility with which the hangers on of this House manage to put their hands into the public treasury. He considered himself, and every member of this House, in the capacity of a guardian of the public treasure, and he felt the same obligation to take care of it that he would to take care of the estate of minors for whom he had been legally appointed the guardian. The maps required by the committees of the House, he was satisfied, could be procured at less expense than the sum now paid. In conclusion, he could see no good reason why another person should be employed to do this work while the regular officer of the House, instead of attending to his duties, was engaged as a reporter of its proceedings.

Mr. McKENNAN admired the spirit of economy which seemed to actuate the gentleman from Georgia, [Mr. SCHLEY.] He was bound to suppose that the resolution was solely dictated by considerations of economy. It was probable, however, that the object was to procure these maps to be made by some other person; that it was intended to make room for some favorite. He had understood that greater facilities had been afforded at the Post Office Department to another individual than were extended to the draughtsman of this House. The duties of this officer were not confined to the Post Office Department. He was also assiduously engaged in the performance of duties required by the Committee on Roads and Canals, and other committees. He was unwilling that this office should be abolished, merely for the purpose of transferring its duties to some favorite.

Mr. PEARCE said, if the officer of the House did not execute the duties required of him, it might be a proper subject of inquiry. He could not, however, see the propriety of transferring the duties from the present officer to another—nothing could be gained by it. The duties of the draughtsman were not confined to the Committee on the Post Office. The Committees on Public and Private Land Claims, and on Roads and Canals, required the constant services of this officer. Several of the members of his family were also engaged in aiding him in the performance of his duties. If an inquiry was necessary, it was a matter of doubt to what committee it should go. About once in two years, when the Committee on the Post Office reported a bill creating new post routes, the services of the draughtsman were necessary. The other committees to which he had referred, required his services almost daily. In conclusion, he could see no reason for a change. It was the duty of the Clerk of the House to see that this officer did his duty, and if Mr. Burr had been employed by the Clerk, it was his duty to explain why this had been done.

Mr. LOVE said, as a general rule, he was in favor of resolutions of inquiry. He was satisfied his friend from Georgia [Mr. SCHLEY] had no other motive in offering the resolution, than a high regard to duty and the public interest; that he was actuated by no sinister views. He knew that several of the sons of the draughtsman of the House, who were every way competent, were engaged in aiding him in the performance of his duties. It should, therefore, not be an objection to him that he spent three hours each day in reporting the speeches of members, (in a manner, too, better than any other reporter.) It would be recollected that, after much debate at a former session, on the subject of reform, the only result was an abolition of the office of draughtsman. It had been subsequently found necessary to reinstate this officer. If the gentleman would modify his resolution so as to inquire into all the abuses in the public departments, with a view to reform, he should have his hearty assent. He would go with him most heartily in all attempts to correct abuses. He had been informed that, after the office of draughtsman was abolished, it had cost ten times more to procure the necessary work to be done by the job, than was paid to this officer. Why had not the regular draughtsman of the House been called upon to execute the work which had been done by another? If he had been so called upon, and refused, then it would be a proper subject of inquiry. In conclusion, he repeated that if the gentleman would so shape his resolution as to inquire into any and all abuses which might exist in the departments, he should have his cordial co-operation.

Mr. STEWART said this was rather a small matter, although it seemed likely to lead to a long debate. There were but three weeks remaining of the present session, and much important business to be acted upon. He would therefore move to lay the resolution on the table.

Mr. SCHLEY asked for the yeas and nays on the motion; which were ordered.

Mr. LOVE could not vote to lay the resolution on the table, although he was opposed to the adoption of the resolution in its present shape.

Mr. STEWART withdrew his motion to lay the resolution on the table.

Mr. SCHLEY said it was impossible for him to know the motives which actuated the course of the gentleman from Pennsylvania, [Mr. McKENNAN.] He had thought fit to attribute improper motives to him, (Mr. S.) It would, perhaps, be better for the gentleman to look to his own motives, without reflecting upon those of others. He was not in the habit of imputing unworthy motives to others, and he had no evidence that would authorize him to impute such to the gentleman from Pennsylvania, [Mr. McKENNAN.] But if the old maxim be true, "that we judge others by ourselves," then it would follow that the gentleman made propositions from unworthy motives. He, (Mr. S.,) however, did not believe the gentleman capable of such a course. In offering the resolution, he had no favorite in view, nor was his mo-

tion the result of management or preconcert. He had no acquaintance with any person qualified to discharge the duties of the draughtsman. No applications had been made to him. No persons solicited him for favors here. He had not seen any such persons. His associations did not lead him to such discoveries. He had offered the resolution without consulting any person. He had daily seen the draughtsman of the House engaged in reporting speeches here, while another individual was employed at the public expense to discharge his duties. He had inquired why this was the case, and had obtained no satisfactory reply. If Mr. Stansbury was incompetent or unable to perform these duties, another should be appointed in his place. If large sums were to be paid to another for these services, it was proper that this almost useless officer of the House should be dispensed with. He barely knew the present incumbent when he saw him. He had no objections to him personally. He was actuated, in offering the resolution, by considerations of public duty alone. It had been said that this officer, particularly in relation to the duties required by the land committees, performed his duties faithfully. If, upon inquiry, it should be found that all the services required of this officer were performed properly and with fidelity, there would be an end of the matter, and he, for one, would vote against the abolition of the office. If, on the contrary, this office, under present circumstances, should, upon inquiry, be found to be unnecessary, he presumed no gentleman would vote for its continuance. He was surprised that gentlemen should be opposed to this inquiry. Do they fear it?

In relation to the suggestion of his friend from Kentucky, [Mr. LOVE,] as to the propriety of extending the inquiry to the other supposed abuses in the departments of the Government, he should not object to such a proceeding, if it were brought forward in a separate proposition. It was best to do one thing at a time. If he was aware of any other abuses, he would not hesitate to bring them to the consideration of the House. If the gentleman from Kentucky would propose a resolution of the character indicated by him, he would go for it. He would be perfectly willing that a select committee should be raised on any such resolution, with the gentleman from Kentucky at its head, and he would be willing to stand at the foot of such committee, for the purpose of ferreting out any abuses which might be supposed to exist.

Mr. H. EVERETT desired to know, if maps had been made by order of the House, whether the draughtsman of the House had been first required to do the service, previous to the employment of another. Mr. Burr, he understood, was the peculiar officer of the Post Office Department. He wished to know, also, whether the maps alluded to had been ordered by the Post Office Committee.

Mr. SCHLEY replied, that he understood Mr. Burr had been employed under a resolution of the House; whether at the instance of the Committee on the Post Office, he knew not.

Mr. BRIGGS said that, during the last session of Congress, the Committee on the Post Office required various maps connected with their duties. The draughtsman of the House had been required to execute them, which he failed to do, because, as he alleged, the proper facilities were withheld from him at the Department. The draughtsman had applied at the Department for a map necessary to the performance of the duty required, but he was informed that it could not be taken from the Department, and could only be used in the office. He knew not whether this apology of the draughtsman was considered sufficient. The maps were necessary, and the Clerk of the House was required by resolution to procure their execution. The Clerk did not apply to the draughtsman of the House, under the circumstances; as he understood, from the terms of the resolution, that he was required to employ another individual to perform the service. He considered this officer essentially necessary. The resolution to which he had referred showed the propriety of continuing this office. The draughtsman employed under the resolution had been constantly employed in the discharge of the duty assigned to him, and it would take months to complete the work. If the gentleman was anxious to know whether this officer performed his duties faithfully, he had better direct his inquiry to that point. He was not prepared to say whether this officer had or had not discharged the duties assigned him with fidelity. He had no objection to the inquiry. If the office were abolished, nothing would be gained by it, as the services would have to be performed by the job, or otherwise, at an expense equal, if not greater than that at present allowed.

The resolution was then agreed to.

PRINTER TO CONGRESS.

Mr. ROBERTSON, by leave, offered the following resolutions:

Resolved, That the office or appointment of printer to the Senate and House of Representatives, respectively, ought to be abolished or dispensed with.

Resolved, That in future all printing on public account should be done under contracts with such persons, and subject to such regulations, as may be authorized and prescribed by law; and that, to this end, the Secretary of the Senate, the Clerk of the House of Representatives, the Postmaster General, and the Secretary of the Treasury, be authorized and required to advertise, respectively, for sealed proposals, to execute—first, all printing by order or on account of the Senate; secondly, all printing on account of the House of Representatives; thirdly, all printing within the District of Columbia, for the Post Office Department; and, fourthly, all other printing, within the said District, on public account; the said proposals to be returned to and lodged in the office of the Attorney General, and to be opened on some day to be prescribed by law, and mentioned in the advertisements, in the presence of the said Attorney General and all the officers above named, and the contracts to be then and there entered into by and between the said officers, respectively, acting on behalf of the United States, and such persons as may be willing to undertake the said printing on the most advantageous terms to the public, and to give adequate security for the faithful execution of the work. *Provided*, That no person, nor company, employed by any one of the officers authorized to enter into contracts for the same, shall be employed or concerned in any other printing on public account, authorized to be contracted for by the other officers, respectively; and in case of an equality in two or more bids, the preference shall be given to the person whose proposals were first lodged in the Attorney General's Office. *Provided, also*, That no person holding any office or appointment under the Government shall be employed to do any part of the public printing, or to have an interest or concern therein.

Mr. EVANS said the resolution was one of considerable importance, and as the hour devoted to reports and resolutions had nearly expired, he would prefer that the resolutions should be printed, and postponed to Monday; and that the House should proceed to the consideration of the orders of the day.

Mr. ROBERTSON would not object to a postponement of his resolution to Monday, provided it should be made the special order for that day. He did not propose to discuss it at the present time. The period had however arrived when, under a joint rule of the two Houses, it became necessary to choose a printer. If,

therefore, the resolution offered by him was acted upon, it should be speedily done. He would move that the resolution be postponed to Monday, and made the special order for that day.

The CHAIR reminded the gentleman that his resolution would come up, as a matter of course, on Monday, as the unfinished business of the morning hour of this day.

RELATIONS WITH FRANCE.

The following message was received from the President of the United States, by the hands of his private secretary, Mr. Donelson:

The message and accompanying report of the Secretary of State were read, as follows:

To the House of Representatives of the United States:

I transmit to the House of Representatives a report of the Secretary of State, accompanied with extracts from certain despatches received from the minister of the United States at Paris, which are communicated in compliance with a resolution of the House of the 31st ultimo. Being of opinion that the residue of the despatches of that minister cannot, at present, be laid before the House, consistently with the public interest, I decline transmitting them. In doing so, however, I deem it proper to state that, whenever any communication shall be received, exhibiting any change in the condition of the business referred to in the resolution, information will be promptly transmitted to Congress.

ANDREW JACKSON.

WASHINGTON, *February* 6, 1835.

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DEPARTMENT OF STATE,

WASHINGTON, *February* 5, 1835.

To the PRESIDENT *of the United States.*

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 31st ultimo, requesting the President to communicate to that House, if not incompatible with the public interest, "any correspondence with the Government of France, and any despatches received from the minister of the United States at Paris, not hitherto communicated to the House, in relation to the failure of the French Government to carry into effect any stipulation of the treaty of the 4th day of July, 1831," has the honor to report to the President, that, as far as is known to the Department, no correspondence has taken place with the Government of France since that communicated to the House on the 27th December last. The Secretary is not aware that the despatches received from the minister of the United States at Paris present any material fact which does not appear in the correspondence already transmitted. He nevertheless encloses so much of those despatches, written subsequently to the commencement of the present session of the French Chambers, as may serve to show the state of the business to which they relate since that time, and also that portion of an early despatch which contains the substance of the assurances made to him by His Majesty the King of the French, at a formal audience granted to him for the purpose of presenting his credentials: and he submits for the President's consideration, whether the residue can, consistently with the public interest, be now laid before the House.

JOHN FORSYTH.

—

Mr. Livingston to the Secretary of State of the United States.

EXTRACTS.

PARIS, *October* 4, 1833.

SIR: On Monday I presented my letter of credence to the King, on which occasion I made the address to him, a copy of which is enclosed.

* * * * * *

His answer was long and earnest. I cannot pretend to give you the words of it; but, in substance, it was a warm expression of his good feeling towards the United States for the hospitality he had received there, &c.

* * * * * As to the convention, he said, assure your Government that unavoidable circumstances alone prevented its immediate execution, but it will be faithfully performed. Assure your Government of this, he repeated, the necessary laws will be passed at the next meeting of the Chambers. I tell you this, not only as King, but as an individual whose promise will be fulfilled.

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Mr. Livingston to the Secretary of State.

EXTRACTS.

PARIS, *November* 22, 1834.

* * * * * *

I do not hope for any decision on our affairs before the middle of January. One motive for delay is an expectation that the message of the President may arrive before the discussion, and that it may contain something to show a strong national feeling on the subject. This is not mere conjecture; I know the fact; and I repeat now, from a full knowledge of the case, what I have more than once stated in my former despatches, as my firm persuasion, that the moderate tone taken by our Government, when the rejection was first known, was attributed by some to indifference, or to a conviction on the part of the President that he would not be supported in any strong measure by the people, and by others to a consciousness that the convention had given us more than we were entitled to ask.

* * * * * *

I saw last night an influential member of the Chamber, who told me that * * * * * * * * * * and that the King had spoken of our affairs; and appeared extremely anxious to secure the passage of the law. I mention this as one of the many circumstances which, independent of official assurances, convince me that the King is sincere; and now I have no doubt of the sincerity of his cabinet. From all this you may imagine the anxiety I shall feel for the arrival of the President's message. On its tone will depend very much, not only the payment of our claims, but our national reputation for energy. I have no doubt it will be such as to attain both of these important objects.

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Mr. Livingston to Mr. Forsyth.

EXTRACT.

PARIS, *December* 6, 1834.

* * * * * *

The Chambers were convened on the 1st instant, under very exciting circumstances; the ministers individually, and the papers supposed to speak their language, having previously announced a design to enter into a full explanation of their conduct, to answer all interrogations, and place their continuance in office on the question of approval by the Chambers of their measures.

This, as you will see by the papers, they have frankly and explicitly done; and, after a warm debate of two days, which has just closed, they have gained a decided victory. This gives them confidence, permanence, and, I hope, influence enough to carry the treaty. I shall now urge the presentation of the law at as early a day as possible, and although I do not yet feel very certain of success, my hopes of it are naturally much increased by the vote of this evening. The conversations I have

had with the King and with all the ministers convince me that now they are perfectly in earnest and united on the question, and that it will be urged with zeal and ability. Many of the deputies, too, with whom I have entered into explanations on the subject, seem now convinced that the interest as well as the honor of the nation requires the fulfilment of their engagements. This gives me hopes that the endeavors I shall continue to make without ceasing until the question is decided, may be successful.

The intimation I have conceived myself authorized to make of the serious consequence that may be expected from another rejection of the law, and of the firm determination of our Government to admit of no reduction or change in the treaty, I think have had an effect. On the whole, I repeat that, without being at all confident, I now entertain better hopes than I have for some time past done.

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Mr. Livingston to the Secretary of State.

EXTRACTS.

PARIS, *December* 22, 1834.

SIR: Our diplomatic relations with this Government are on the most extraordinary footing. With the executive branch I have little to discuss, for they agree with me in every material point on the subject of the treaty. With the Legislature, where the great difficulty arises, I can have no official communication; yet deeply impressed with the importance to my fellow-citizens of securing the indemnity to which they are entitled, and to the country of enforcing the execution of engagements solemnly made to it, as well as of preventing a rupture which must infallibly follow the final refusal to execute the convention, I have felt it a duty to use every proper endeavor to avoid this evil. This has been, and continues to be, a subject of much embarrassment.

* * * * * *

My last despatch (6th December) was written immediately after the vote of the Chamber of Deputies had, as it was thought, secured a majority to the administration; and it naturally excited hopes which that supposition was calculated to inspire. I soon found, however, both from the tone of the administration press and from the language of the King, and all the ministers with whom I conferred on the subject, that they were not willing to put their popularity to the test on our question. It will not be made one on the determination of which the ministers are willing to risk their portfolios. The very next day after the debate the ministerial Gazette (Les Débats) declared that, satisfied with the approbation the Chamber had given to their system, it was at perfect liberty to exercise its discretion as to particular measures which do not form an essential part of that system; and the communications I subsequently had with the King and the ministers confirmed me in the opinion that the law for executing our convention was to be considered as one of those free questions. I combated this opinion, and asked whether the faithful observance of treaties was not an essential part of their system, and, if so, whether it did not come within their rule? Without answering this argument, I was told of the endeavors they were making to secure the passage of the law by preparing the statement mentioned* in my former despatch. This, it is said, is nearly finished, and, from what I know of its tenor, it will produce all the effect that truth and justice can be expected to have on prejudice and party spirit.

The decision not to make it a cabinet question will not be without its favorable operation, * * * * * some of the leaders of the opposition, who may not be willing to take the responsibility of a rupture between the two nations, by breaking the treaty when they are convinced that, instead of forcing the ministers to resign, they will themselves only incur the odium of having caused the national breach. In this view of the subject, I shall be much aided if, by the tenor of the President's message, it is seen that we shall resent the breach of faith they contemplate.

It is on all hands conceded that it would be imprudent to press the decision before the next month, when the exposition will be printed and laid before the Chambers.

* * * * * *

On the whole, I am far from being sanguine of success in the endeavors which I shall not cease to make for the accomplishment of this important object of my mission; and I expect with some solicitude the instructions for my conduct in the probable case of a rejection of the law. I have the honor to be, &c.

EDW. LIVINGSTON.

Hon. JOHN FORSYTH, *Secretary of State, &c.*

Mr. J. Q. ADAMS rose and said: I move, sir, that the message, and the extracts from the despatches accompanying it, be printed, and referred to the Committee on Foreign Relations, with instructions to report forthwith on that part of the message of the President of the United States which relates to this subject.

Mr. McKIM said, as the papers accompanying the message were of an important character, he moved that they be read; which was done.

Mr. CAMBRELENG said that, after hearing the correspondence read, he hoped the gentleman from Massachusetts would withdraw that part of his motion which required the Committee on Foreign Relations to report forthwith. He trusted, he said, that, whatever measure might be finally adopted on this subject by the House, it would receive the unanimous vote of the House.

Mr. J. Q. ADAMS said, in introducing the motion to instruct the Committee on Foreign Relations to report on the subject of the message forthwith, he was governed by the persuasion that it was inconsistent with the interest and honor of the nation to leave the subject longer unacted upon. He should not object to any amendment which the committee might propose, with a view to allow them time for the consideration of the subject. But he did think that it was important, as we were now within a few weeks of the close of the session, that the subject should be brought before the House without further delay. It appeared doubtful, from the correspondence which had been read, whether the Government of France would fulfil the stipulations of the convention. Mr. Livingston, in his letter of the 6th of December, uses very sanguine terms in relation to the success of the appropriation bill; but in a subsequent letter, of the 22d of December, he stated that the new ministry would not even propose to the Chambers to act on the appropriation as a ministerial measure. The ministers themselves, therefore, were not unanimous on the principles of the appropriation, and Mr. Livingston said that he was now far from being sanguine in the success of his endeavors to accomplish the object of his mission. Other reports (Mr. A. said) stated that there was no prospect of obtaining the appropriation. Under these circumstances, he thought it time for the House to take up the subject, as it was proposed by the President in his message at the commencement of the session. Now, that it was so probable that the French Chambers would do nothing, it had become the imperious duty of the House to act on the subject. He was desirous that the Committee on Foreign Relations should make a report. He did not propose to prescribe what they should report; he only

*The paper here referred to by Mr. Livingston is a memoir to be laid before the commission which may be appointed to examine the law, intended to contain all the arguments and facts by which it is to be supported.

asked them to report. A member of the committee had recently asked leave of the House to offer a resolution instructing the committee to report certain specific propositions upon the subject, which the House, by a very small majority, had refused to entertain. Mr. A. had voted that the member should have leave to offer that resolution, not that he had made up his mind in favor of the instructions which the gentleman from Virginia had proposed should be given to the committee, but that the subject should be brought before the House for deliberation.

Let the House be put in possession of the subject, and let them say to the nation and the world, whether they will sustain the President in the spirit of the proposition he has made for maintaining the rights, interests, and honor of the country. If the declaration of the House went to France after the appropriation had been made, why, it would do no harm. It would only show that the House felt bound to sustain the honor of the nation. But, if the appropriation should not be made, the measure was still more proper and necessary.

The President, at the commencement of the session, had declared to the House and to the world, what he thought the interest, the rights, and the honor of the nation would require on a contingency which was no longer to be considered as such. Mr. A. believed it incumbent on the House to show to the nation and to the world that they, too, were not insensible to the interest, the rights, and honor of the nation. Of the particular measure proposed by the President, he would say, as he believed the public opinion would be, as was said of the first great act of the life of Lafayette, when he came to join the standard of our country, that those who censured it as imprudent, must yet applaud its spirit. It had gone forth to all mankind, exhibiting the President in the attitude of the sustainer of the rights, the interests, and the honor of the nation, and he hoped the House would not suffer itself to appear in a contrasted character with that of the President of the United States, by shrinking from the responsibility specially incumbent upon them as the representatives of the people. At least, let them have the subject in a shape to act and deliberate upon, so that they might declare what they would do, and what their feelings are in a case involving the interests, the rights, and the honor of the country.

Mr. ARCHER, of Virginia, expressed his surprise at the proposition for instruction coming from his friend from Massachusetts. When the House gave a peremptory instruction, such as was now suggested, for an instant report from a committee, what did such a proceeding import, and was considered in parliamentary usage as importing always? Why, that the opinion of the House was made up on the subject of the report, and that, therefore, it required no further inquiry on the part of its organ, the committee. This, he repeated, was the parliamentary, as it was the reasonable, construction. Well, then, what was the inference here, if the House yielded to the instruction? That itself, as well as the honorable member from Massachusetts, stood prepared to discard further suspense, under the information just communicated, on this most important subject of our relations with France, (the occasion of so much anxious deliberation,) and was now ready to act definitively! And how act? In a continued forbearance? If that were the course designed, no instruction was required; and, if designed, the instruction must lead to misinterpretation, given, as it would be on the instant, after the reading of unfavorable intelligence from our minister in France, as regarded the prospects of the treaty for execution, and accompanied, too, and introduced by such remarks as had fallen from the honorable gentleman from Massachusetts, certainly of no very forbearing and temperate character. The instruction, then, would be the declaration of a disposition on the part of the House to take a belligerent attitude towards France, or such a one as had been intimated in the President's message, at the beginning of the session, which had just been referred to with so strong an inference of praise, prospective, at least, if not immediate. Was the House (Mr. A. asked) in this disposition? Did it partake the fervor which had been manifested by the gentleman from Massachusetts? He made open profession that he did not, for one. He saw nothing in the extracts which had just been read from Mr. Livingston's correspondence, to call for any present departure from the course which he understood had been agreed on by a tacit but general consent, to forbear action on this business of the treaty, till we had heard from the action of the French Chambers on the subject. To the assurances, which were reiterated in the extracts just read, of the continued, sincere, united, and even zealous disposition of the French cabinet to give effect to the treaty, what information, of a different promise, was given in the last of these despatches calculated to awaken a flame and rouse to a precipitate and peremptory action on our part? Why, the whole would be found to amount to a diminished probability—a waning, though not extinguished expectation, on the part of Mr. Livingston, of the execution of the treaty. Mr. Livingston found from the court journal, and conversations with the ministers, that the execution was not to be made a cabinet measure, but to be left to the discretion of the Chambers. From any question of good faith or abatement of zeal on the side of the ministry to carry the measure? No! But from the difficulties of their ministerial position. They detail to him their purpose and plan to effect the object, and he himself thinks it of great force to operate on prejudice and party spirit.

Why, what have we been waiting for all along? said Mr. A. Has it not been for the result of the exercise of their discretion by the French Chambers? And what have been the grounds of our anticipation of a favorable issue, or, at least, of the justification of our delay? The justice of our case, and the probable effect of the zeal of the French cabinet in operating on the Chambers. Are either of these grounds taken from us, however the last may be weakened? If he heard the reading of the paper aright, Mr. A. said, Mr. Livingston even expresses an expectation that the refusal to make the measure a cabinet one may have a favorable influence, and the reason he gives is a good one: the responsibility which it will throw on the opposition party.

In these circumstances, Mr. A. could not for his life conceive how there could be any shrinking, (the expression used by the gentleman from Massachusetts,) in continuing the course we had heretofore observed, of waiting for the definite action of the Chambers. He confessed he should have great regret in being driven into war, and especially for so small a subject of interest, with our ancient friend and earliest ally. If, indeed, the affair should become a question of honor, as intimated by the honorable gentleman, then there ceased to be a question, Mr. A. said, at all as to what we were to do. In that case, though the subject of controversy were scarcely to exceed in amount the cost of two or three of the naval expeditions which might be required, he should be found (as much as he was behind him in present fervor) at the side of his honorable friend from Massachusetts. Before he planted himself there, however, he felt it perfectly consistent with honor to exhaust every resource of forbearance to avert an issue which must prove exceedingly calamitous. He thought this indeed the highest course of honor, to precede the harsh resort to which he referred by this forbearance. He should conclude, therefore, with the hope that the proposed instruction of the gentleman, in the aspect in which he had stated it, would not meet the acceptance of the House.

Mr. CLAYTON, of Georgia, said: Feeling it my duty to vote against the gentleman's motion, and having, at the early part of the session, introduced a resolution embracing, in part, the same object, it might seem to be required, to save from the reproach of inconsistency, to offer some justification for my present course. The President's message evidently presented two propositions: either to take no action upon the subject, or to authorize reprisals, which I then and now consider as a war measure. To avoid war, and acting under a solemn conviction that it was wholly unnecessary, and might be averted by prudent measures, I believe that a timely evidence, afforded the French nation, that Congress did not agree with the executive branch of Government, would restore the temper of the nation to that condition which existed prior to the message; would remove from the deliberations of the French Legislature that passion, feeling, and warmth, so unfavorable to just and correct results, which that document was certainly calculated to inspire. This purpose of mine has been fully accomplished by the other branch of Congress. The unanimous vote of the Senate will effect, if any thing can do it, the object I had in view; and sure I am, if it does not, the progress of Congress in that direction may as well come to a pause, and then it will be proper for us to consider the other proposition of the President. Until, then, the effect of the Senate's measure shall be known, I am unwilling to move any further. And I am fully satisfied with this measure, because it is the expression of the unanimous opinion of that wise body, in which all arties have concurred; which, we are informed, meets the views of the President himself, and will obviously utter a more decisive language than any thing from this House, if unfortunately it should be divided, as we have every reason to fear, in its views of the same subject. The influence of the measure would be greatly weakened, and perhaps destroyed altogether, if, in the difference of action between the two Houses, we should happen to present a distracted consideration of the question. Now, sir, that alternative having been taken, I am for waiting the result of its full operation. There is no good reason to abandon it as yet. The committee of this House, to whom the subject was referred, seemed to have acquiesced in the force of these circumstances, and having nothing upon which to found a different opinion, have remained quiet, doubtless awaiting the progress of events, to see whether we shall be driven to the necessity of adopting the other course recommended by the President. From the remarks of the gentleman from Massachusetts, [Mr. ADAMS,] having stated that the papers just read convinced him we had no further hope of a compliance, on the part of France, with our wishes, and that it was time to support the President in the manly spirit of his message, and to save ourselves from the reproach of meanly shrinking from the support of the national honor, I infer that he believes the crisis has arrived, (and, connecting his remarks with his motion, such inference cannot be strained,) when the committee ought to report "forthwith" the measures submitted by the President, which will be in effect a hostile preparation. I appeal to the House to say whether, if, down to this time, such a procedure would have been unwise and injudicious, there is any thing in the communication just made by the President that should authorize a change of policy? Is the evidence on your table of that clear and satisfactory character as to require that we should resort to the war measures recommended by the President? In it there is nothing certain; all is conjecture; and although I believe the prospect is extremely gloomy for an adjustment of the difficulty, according to what we consider due to our rights; yet it is the better part of wisdom to wait for the final action of the French Government, under the new aspect of the case, as presented by the President's message. For these reasons, I shall vote against the motion of the gentleman, though reluctantly, on account of the high source from which it has proceeded, resting under the conviction that, if there was any good reason for waiting thus long for a report, there is nothing which has changed that obligation; on the contrary, there is every thing to justify a continuance of our forbearance.

Mr. MCKINLEY said he was pleased to see the gentleman from Massachusetts [Mr. ADAMS] evince so becoming a spirit on the occasion; and if he would delay his motion till a reasonable time was given to hear further from France, he (Mr. M.) would go with him for instructions to the Committee on Foreign Affairs, provided they would not make a proper report without. Mr. M. said that he was prepared to act decisively upon this subject before the adjournment of Congress. The gentleman from Virginia [Mr. ARCHER] urges forbearance towards our ancient friend and ally. He believes the King of the French sincerely desires that the treaty of the 4th of July, 1831, should be carried into effect; and that we ought not, therefore, to carry out the recommendation of the President, because it may lead to war; we ought not, he thinks, to involve the country in war for the sum in controversy. Sir, how long is this forbearance to be urged upon us? There have been four sessions of the French Chambers since the exchange of ratifications of the treaty. At the first the subject was not noticed; at the second, which lasted about four months, it was laid before the Chamber of Deputies, nineteen days only before the adjournment; the bill was referred to a committee, and there the matter ended; the next session continued about three months, and about fifteen days before its adjournment the subject was again brought to the consideration of the Chamber of Deputies, but not acted upon; and, finally, at the session in April, 1834, the question was fully discussed by the Deputies, and the bill containing the necessary appropriation rejected.

Sir, suppose it be true that the King entertains the most sincere desire to have the stipulations of the treaty performed to the very letter; and that that department of the Government which holds the purse-strings refuse furnish the means to enable him to have it done; does that good feeling on the part of the King furnish a sufficient reason for continual forbearance on our part? If so, the stipulations need never be performed, and still we must forbear. I have no doubt of the sincerity of the professions of the King; and if the execution of the treaty depended upon his will alone, I would delay its execution for any reasonable length of time to meet his convenience. But when we know that a co-ordinate department of the Government, claiming and exercising the right to prevent its execution, has twice neglected to consider the subject, when brought to its notice; and has once, upon full deliberation, refused to appropriate the necessary sum to enable the King to comply with the solemn stipulations of the treaty, are we still to forbear? And upon what reason? Because France has been our ancient friend and ally—because the Chambers are now in session, and may possibly reconsider the subject, retrace the steps, and at some future, indefinite period condescend to make the appropriation? And because, too, it is for a paltry sum of money—much less than it would cost to coerce payment? At what time, and upon what reasons, do gentlemen propose that forbearance shall cease? The proposition is wholly indefinite. It is true that the French Chambers are in session, and have been since the 1st of December; and it is equally true that, down to the 22d, they had not even noticed the subject of the treaty. They have heretofore omitted to act on the subject at three successive sessions, and at the fourth rejected the bill. If these acts teach us nothing but forbearance, similar acts can but teach a similar lesson; and time can bring us no nearer the ter-

mination of the controversy. But, sir, if this ancient friendship, which once so happily subsisted between France and the United States, ought to induce us to bear and forbear, have we not done so? Our just claims against that nation remained unsettled for more than twenty years; and then we agreed to accept a little more than half of what we were entitled to, rather than have a rupture with our ancient friend and ally. After the amount was liquidated, and payment stipulated by treaty, nearly four years more have rolled round, and the debt has not yet been paid, nay, payment has been absolutely refused. Sir, who is in the right, and who in the wrong, in this controversy? There has been nothing but forbearance on the part of the United States, and nothing but aggression on the part of France. Can friendship be preserved by such humiliating submission on our part? Not only France, but all the world, must feel a contempt for us, if we adjourn without acting with proper spirit and dignity, after such protracted injury and injustice. Sir, are we to refrain from taking the most specific means that can be adopted by one nation towards another, to compel the payment of a just debt, merely because it may lead to war with an ancient friend? Why do gentlemen refuse to look at the other side of this question? If the friendship is to be preserved by kindness, forbearance, and good offices, is it not necessary that the acts should be observed by France as well as the United States? If reprisals might lead to war, might not the infraction of a treaty lead to war also? Will any one deny that the treaty of the 4th of July, 1831, was violated by the refusal of the French Chambers to comply with it? and was not that violation just cause of war? Is it upon this argument that forbearance is demanded beyond the present session?

Does it occur to gentlemen here, that it will cost France just as much to go to war for these five millions as it will cost us. If war should be the result of the course which we may be compelled to take, is the fault ours? Had France complied with the stipulations of the treaty, that friendship, which is so highly and so justly appreciated, might and would have been preserved. Had she been as tender of our feelings, and regardful of our rights, as we have been of hers, no difficulty could ever have occurred between us. But forgetting that sacred friendship, that ancient alliance, which weighs so heavily with us, she has delayed to acknowledge a just debt for more than twenty years; and, after acknowledging and promising, in the most solemn manner, to pay it, she has finally refused, and still continues to enjoy the commercial benefits of the treaty, which were given as part consideration for the five millions she promised to pay. It would, to be sure, be better, in a pecuniary point of view, that we should pay our citizens the five millions of dollars than to hazard a war with France, if that were the only interest involved. But can we thus compromise the honor of the nation? Is the national honor to be estimated by dollars and cents? To submit to this indignity would be an abandonment of all national character, and invite aggression and insult from every other quarter. The idea is not to be tolerated for a moment. I am willing to wait as long as we can with propriety, for further advices from France; but not so long as to prevent decisive action on the question at the present session. We have ample grounds to justify the proceeding recommended by the President; and to justify a much stronger proceeding, if we choose to adopt it; and I, for one, am prepared to act upon it before we separate. It is true, that those I represent, and the South generally, would be greatly injured by a war, if war should be the result—which I cannot believe will be the case. But I have no doubt they would submit to any personal privation, rather than submit to national dishonor.

Mr. LYTLE said: Mr. Speaker, since I have had the honor of a seat upon this floor, it has never been my good fortune to listen to speeches in this House, or elsewhere, or at any time, or upon any occasion, in which I felt the same sensations which have been produced upon me by the proposition and appeal made by the venerable member from Massachusetts this morning. Sir, there was in it, to my mind, however it may affect the minds of others, I say there was in it to my mind, a degree of moral grandeur and sublimity which, as an American citizen, I was most proud and happy to see and hear. The ex-representative of the executive department of this Government now aiding to the extent of his abilities, as a Representative upon this floor, in the councils of his country, and sustaining with the candor and undisguised patriotism of an American freeman the spirit and proposition of his successful rival, the incumbent of the executive chair at this time; and upon what? Upon a proposition that the people of this country should vindicate their national pride and their national honor. What was the character of the proposition of the honorable gentleman from Massachusetts? Does it amount to a declaration of war, if adopted by this House? No, sir. It merely proposes to call upon the Committee on Foreign Affairs to make a report to vindicate this House from the imputation which, I insist with him, will rest upon it, of pusillanimously cringing to the juggling and caprices of a foreign potentate, who is unwilling to render that justice, over and over again proposed by himself, and admitted to be due to this country, and after four months of the session, for it is now the fourth month since the special call of the French Chamber of Deputies was made, with reference to the adjustment of this very claim; here we are, with what intelligence from France? Why, that your minister was first seduced into the belief, or assured into the belief, by the flourishes of Louis Philippe and his cabinet, that they really intended to enter, heart and soul, into this measure, and instantly carry the treaty into effect; that they meant to pledge the whole weight of the Government, and to throw themselves into the scale, and make it a national proposition. This was the purport of Mr. Livingston's first despatch. But what was the amount of his subsequent correspondence? Why, he grows less and less sanguine up to the date of his last communication, and finally tells us he is now not at all sanguine! That the French King and his cabinet, instead of making it a ministerial measure, and throwing the whole weight and popularity of the Government into the scale, have shuffled out of the controversy, and left it as an open matter, in the decision of which they have no special interest. Now, let me ask the members of this House, what pledge they will wait for after this shuffling course, before the close of this session? Can they, after this, expect to receive intelligence of a more grateful character? Or may they not reasonably calculate upon hearing, by the first vessel that may arrive from Europe, that this nation, which has thus long procrastinated the payment of a just claim, has determined not to pay it at all? And having come to that conclusion, and knowing that war is inevitable, may we not expect her to take the first step, and, as a matter of safety to herself, detain our ships now in the Mediterranean, and blockade the ports there? Well, what are we asked to do by the proposition of the honorable member from Massachusetts? Nothing more than that, in the event of their refusing, before the adjournment of this House, to ratify this treaty, the House will pledge itself to answer the call of the President of the United States, by giving him power, or resorting to some other means, in the event of this contigency, to save the nation, and protect its honor and the just claims of its citizens from the aggressions of this insolent and juggling Power. Sir, when I hear the appeal from such a quarter, echoing back the same

spirit, so highly and properly lauded on the part of the Executive, by one grown gray in diplomacy, and familiar with the tricks of courts; by one who has a just, a high, and an honorable sense of his own character, and the character of the American people; I say, sir, there is no room left for me to doubt of its propriety at this time. I say, sir, now is the time, and if I, for one, were certain that a messenger would arrive this very night, with intelligence that the French Chamber had acted upon this subject, I would still urge the adoption of the resolution of the gentleman from Massachusetts. It goes the whole to show abroad the sense of the American people in reference to this matter. It goes the whole to show that, if it is the intention of France to suffer this Congress to pass over before any intelligence of a satisfactory character should be received, the Representatives of the American people are not slumbering at their posts, but are aroused at the prospect of injury and insult, and, by an expression of some sort of the character referred to by the gentleman from Massachusetts, that they are prepared to vindicate the character and honor of the country, and let the world know that that Power which attempts to cavil with, to special plead with, to juggle with the United States of America, have made a serious, and, for them, an unfortunate mistake. That we are prepared to go the whole for the spirit, if not the measure, of the proposition in the executive message; and that we will stand by and sustain the President therein; that we will make it a common cause. That will be done, and I hope now, upon the proposition of the gentleman from Massachusetts; and I trust the matter will be referred by the unanimous vote of this House. What valid objection can be urged against it? It does not contain a proposition for immediate action; it only anticipates that which I believe will come; and in the event of its coming, we should then have the vantage ground, and be able to show that, even before it arrives, we were in a state of preparation to meet it. It is a delicate, but a well-timed and judicious proposition, and one that I hail as an American freeman and a Representative of this body, from the bottom of my soul, especially coming from the quarter it does. I again reiterate the hope, that the resolution, as worded, will be unanimously adopted.

Mr. SUTHERLAND observed that he was as much pleased as the gentleman from Ohio to find that, in this contest, they should have the powerful aid of the very distinguished gentleman from Massachusetts. He had rejoiced to hear the noble sentiments to which that gentleman had given utterance. Yet, while he could not but approve of the elevated and patriotic feelings which that gentleman had manifested, he was not quite ready to go with him at this particular time. If we were to have any contest with France, he wanted to secure for this country the vantage ground. This he would do, not by pressing such a question at this moment. He would wait till he received definite information as to her final determination. For, after all, France was, and had been, our friend and ancient ally. He would speak of her in the language of the President, and he would wait till the very last hour, that he might give her a chance of saying whether she would or would not pay this debt. He had been asked by the gentleman from Ohio, [Mr. LYTLE,] whether he expected to receive any favorable intelligence. In reply, he would say, that every wave carried hope upon its bosom. The French Government might yet send us a message worthy of France. But if not, then he was ready to go with the gentleman from Massachusetts, with the gentleman from Ohio, and with every other gentleman in the House, in the high road of honor, and maintain the glory of our country. He had believed with the President, that, as we had asked nothing but what was right, so we ought to submit to nothing that was wrong. France, however, had assembled the Chamber of Deputies at an earlier period than usual, and it was possible that something might yet be done in time. In the meanwhile, Mr. S. wanted no report from the committee. To one thing he was ready to pledge himself: not to leave that hall till the honor of the country was vindicated in some form. If nothing else should be left them but to go to war with France, he should do it most reluctantly. He was for giving her the very last chance of an amicable settlement. He was not for forgetting ancient times, and the recollections of the Revolution. If, however, the French nation supposed that, because she had once been our ally and friend, we never would go to war with her, do what she would, she would find herself mistaken. Still, he would wait till almost the very close of the session. One week would be sufficient for the action of that House, and he presumed of the other also. The question was not a new one. The documents respecting it had been universally diffused. It was well understood by the House, and by the nation. And when the last hour should come, all were prepared to act. He heartily agreed with the gentleman from Alabama, [Mr. MCKINLEY,] in the sentiment, that the honor of this nation was not a matter to be calculated by dollars and cents. It was to be sustained in quite another style. The history of the late war must satisfy every one that the country would never be wanting to herself on a question where her honor was involved. On such a question she had met and braved the mistress of the ocean. And could any one believe that a country that had come with glory out of such a war was going to flinch on a petty question with France? Gentlemen, therefore, need not be so fastidious. They need not whet the appetite of the nation. None could doubt the readiness of this country to maintain her rights. If the contest could not be avoided with honor, it must be met, perhaps in the way recommended by the President, perhaps in some other. But whatever course might be thought best, he was very sure that all that the country's honor called for would be done. Still he was for digging round the tree for a few days more, until he should see whether it would bring forth any fruit. This would give us the advantage of proving to all the world that we had waited until waiting longer would be dishonor. Where was the urgent haste? Had any vessel gone from this country and returned since the House had received the President's message? None. Whence then the new light which seemed so suddenly to have fallen upon gentlemen? He knew not of a single ray. In the meanwhile, he relied upon the opinion of our minister, that if the Goverament at home should assume a decided tone, it might have a good effect upon the negotiation.

Mr. HAMER, of Ohio, said that he did not rise to make a speech. He did not doubt that gentlemen around him understood the subject quite as well as he, and much better; and that all were prepared to act whenever the proper time should arrive. But on the question of time, there was a difference of opinion. All things, however, indicated, in the meanwhile, that the national honor was safe. He entertained no fears as to the House or the country. He regretted to differ from his friend and colleague on the left, [Mr. LYTLE,] especially on a question of such deep importance. But the reading of the documents which had been communicated to the House had had an effect upon himself directly opposite to that which they seemed to have had upon his colleague. To him it was perfectly obvious that two things must take place before the House could go to their committee and demand a report. The memorial which had been prepared by our minister ought first to have been presented to the Chamber of Depu-

ties, and the action of that body with respect to it known; and, in the second place, the message of the President to Congress should have reached France, and the effect of that message upon the national councils should also be known. It was probable that in a few days intelligence on both these points would be received, and until then he considered it as imprudent and impolitic to call upon the Committee on Foreign Affairs to report to the House any measure whatever for its adoption.

Mr. H. thereupon moved to amend the motion of Mr. ADAMS, by striking out so much of it as went to instruct the committee to report forthwith.

Mr. R. M. JOHNSON, of Kentucky, said he had looked into this difficulty between France and the United States with intense interest, and, he would add, with great anxiety and anguish of mind. That feeling had not in the least been softened or mitigated by the message and documents now presented to us. He said he had read the correspondence between our minister and Government, and the King's ministers here and in Europe, and the subject seemed to be perfectly understood by the Government of France. It was clear that the King and his ministers had in vain exerted their influence upon the popular branch of the French Government to carry the treaty into effect, by making the appropriation which it stipulated, to pay our citizens five millions of dollars, for burning their ships and cargoes on the high seas, and for plundering and confiscating their property, without the authority of the law of nations. He said he found the difficulty to exist in the Chamber of Deputies. He had supposed that the Chamber must have been under some strange delusion as to the principles and facts in the negotiation; for they could not seek to violate an obligation so sacred, so imperative upon nations to perform, particularly the gallant and intelligent people of France towards the United States, their ancient friend and ally. But what was his surprise, his astonishment, on reading the debates of the Deputies, to discover on their part a perfect knowledge of the whole transaction—of all the facts in the case; and yet these Deputies, these representatives of the people of France, refused to pay the money due to our citizens, accruing from the invasion of our rights, the plunder of our commerce, under the unholy sanction of their illegal decrees.

Mr. J. said he would gladly avoid this question, if he could do so with due regard to the rights and character of his country. We might attempt to avoid this question; our feelings may prompt us to do so, because its tendency is to involve such important, such vital consequence; but we should remember that the price of liberty was blood. It was impossible to maintain our freedom, our character, our independence, and at the same time submit to violation of faith, so pointed, so gross, and so flagrant, if persisted in. It was the people of France, or rather the Chamber of Deputies, representing that people, who had, with their eyes open, refused to do us justice; and not the King and his ministers.

Mr. J. said it was doubtful whether those who held back and refused to take strong measures, in cases of insult and injury, did not do more to plunge nations into war than those who acted promptly to resent and redress violations of faith, by acting upon the principle of the President, to demand nothing but what was just, and to submit to nothing evidently wrong. Mr. J. expressed his utter astonishment at the conduct of France. Here, he said, seemed not only to be wrong and injustice, but wilful and premeditated wrong; and the question was, could we tamely submit to it? For one, he could, he would not. He would sustain the President in his course. He was not for precipitation; he was willing to wait for the final action of the Chamber of Deputies; but he now believed forbearance had ceased to be a virtue. It would amount to nothing, unless it was known and believed that this nation could not and would not submit to such injustice. And when it was thus believed that war was inevitable, then, as our cause was so obviously just—as the United States were so palpably in the right—it was possible, perhaps probable, that France might retrace her steps, for the sake of her own honor, and execute the treaty, by paying the indemnity stipulated for the wrongs she had inflicted on our commerce. At all events, this was our only hope. We had made a full experiment of forbearance. It had failed. We must resort to another alternative.

But, Mr. J. said, as he believed the people of the United States were only divided as to the time for resenting and redressing this violation of national faith on the part of France, he, for one, would still yield to that nation a further time, so that no voice could be raised against the course which our country should ultimately be compelled to pursue. The temper of the House manifested great unanimity in relation to the main point—the justice of our complaint, and the utter impossibility of submitting to it. Mr. J. said he hoped, therefore, it would be distinctly understood that he feared not the consequences of expressing himself strongly on this subject; and, whenever the occasion should arrive, he should vote for strong measures, corresponding with his expressions. War, said Mr. J., is a great calamity; there is none greater, except that of tamely submitting to insult and injury. And here was an instance of wrong so flagrant, and a violation of national faith so palpable, that it had few, if any, parallels in the annals of nations; and in this sentiment he believed he should have the concurrent testimony of the civilized world. France knew as well as ourselves that we could not submit to it without degradation and disgrace.

With regard to the immediate question before the House, he thought the message and accompanying documents should be referred to the Committee on Foreign Affairs, without instructions.

In conclusion, Mr. J. said he should do injustice to his own feelings if he took his seat without admitting that his heart palpitated with joy on hearing the patriotic sentiments of the honorable gentleman from Massachusetts, [Mr. ADAMS.] Those sentiments were truly American; and, like the gentleman from Ohio, [Mr. LYTLE,] he honored them for the source from which they came.

Mr. STEWART said he had not risen to make a speech, but to offer an amendment to the motion of the gentleman from Massachusetts, chiefly with a view of thereby obtaining greater unanimity. It must be admitted by all that, in a case of this kind, unanimity was of the utmost importance. The efficiency of the action of the House would in fact depend in a great measure upon it. The nation ought to present a united front. Divided councils could not be productive of any good result. Mr. S. had heard no objection to the proposition of the gentleman from Massachusetts, whose patriotic sentiments must command the approbation and the admiration of all. Yet, he could not but think that requiring the committee to report forthwith might be considered as somewhat premature. He would therefore take the liberty of suggesting to the honorable gentleman from Massachusetts to modify his motion, by striking out the word "forthwith," and inserting, in lieu thereof, the words "on or before the 15th," or perhaps it would be better to say the "20th of the present month." This probably would meet the views of the gentleman from Ohio, [Mr. HAMER,] and would be more likely to be adopted with unanimity by the House than either the original proposition or the amendment proposed.

Mr. HAMER still adhered to his proposal of striking out all instructions.

Mr. EVANS, of Maine, said that he hardly knew in what form the motion now stood. As first presented, it was to instruct the Committee on Foreign Relations to report upon the French question forthwith. In that form, Mr. E. should vote for it, and if it should be modified by substituting a day certain, he should still vote for it. And if the gentleman from Massachusetts had not given the reasons why he made the motion, Mr. E. should not have troubled the House with the reasons why he should sustain it.

But, as it was his fortune to differ considerably from that gentleman, (with whom he so seldom differed, and in whose judgment, purity, and patriotism, he reposed unlimited confidence,) he would endeavor to show, in a few words, why he advocated the same measure, though on different grounds. Mr. E. should support the motion, not in the view of getting such a report as that to which the remarks of the gentleman manifestly alluded, but one precisely opposite. Mr. E. had voted with the gentleman from Virginia [Mr. PATTON] for leave to instruct the committee to report that, in the present state of affairs, no action of the House was necessary. The gentleman from Massachusetts, on the contrary, deemed it important to the honor of the nation that some action should be had now, and that a report should be made, sustaining, to a certain extent, the views of the Executive.

Mr. ADAMS here rose to explain. He said he had certainly intended to state to the House, when he made his motion, that the reason why he had given it such a form, and had introduced the word "forthwith," was, that he considered it the duty of the Committee on Foreign Affairs to act in some way upon the important subjects referred to them. He had not said that he was ready to support the proposition of the President, or any action of the House, or of the committee, the effect of which would be to produce war. He had not meant to be so understood. But what he wished was, that the House should deliberate; and, for the very reason that the measure of the President, or some other measure which the honor of the country might require, might possibly eventuate in war, he wished the House to avail itself of all the time which it had remaining in deliberating on the posture of affairs, and comparing the various propositions which might be advanced. It did not follow, because the House deliberated, that it must either declare war or authorize reprisals. It did not follow that the House must do any thing. And, possibly, at the end of the discussion, they might come to the same conclusion as had been done in the other branch of Congress. But here laid the important difference: the Senate had taken up the subject; their committee had considered and reported upon it; the Senate, too, had deliberated, and their deliberations had ended in a determination to dodge the question. Might not the House come to a like conclusion, and dodge the question, as he Senate had done?

The CHAIR here called Mr. ADAMS to order, and reminded him that it was not permitted to speak disrespectfully of any act of the other branch of the Legislature.

Mr. EVANS now observed that, when he had yielded the floor, it had only been for the purpose of an explanation.

Mr. ADAMS said he had only wished to explain to the House that the object of his motion had not been to advocate a war, but to obtain the deliberation of the House, and to prevent the loss of time.

Mr. EVANS now resumed, and observed that he was as far from attributing any improper motive to the honorable gentleman from Massachusetts, as any man possibly could be. He was fully aware that the gentleman had not, in wording his motion, indicated what sort of a report the committee should make, and it was for this very reason that Mr. E. went for the motion. But, from the remarks with which the honorable gentleman had accompanied it, Mr. E. had certainly concluded that the gentleman would prefer a report in some degree going to support the views of the Executive. If this was not the natural inference from his language, why was it that the gentleman from Virginia [Mr. PATTON] had declared that he differed from him in sentiment? And how was it that the gentleman from Ohio [Mr. LYTLE] had been thrown into such an ecstacy at the sublime moral spectacle of the gentleman supporting the measure recommended by a successful rival? From the impression made upon others, it seemed that he had not been alone in the inference he drew, though he confessed it was drawn rather from the tenor and general tone of the gentleman's speech, than from the express terms of the motion he had proposed. For his own part, he had not known that it was dodging the question to say to France or to the world, that we were not ready to enter into hostilities immediately or unnecessarily. The admitted policy of this country was pacific in its character, and such had been the language of its diplomacy from the very first. It was the avowed determination of the American people to exhaust all previous efforts of a pacific kind before they resort to war. The honorable gentleman had spoken something in regard to the imprudence of the President's message. Mr. E. should not now give his own opinion on that subject; but he thought that before the House or the committee went into any measures which were calculated to lead to hostilities, they ought to have more information than they now possessed. In the communication received from the President, it was distinctly intimated that the Executive was in possession of farther information, which, no doubt, for reasons connected with the public good, was withheld from the view of Congress. Mr. E. wished to have all these facts, before he could make up any opinion. He wanted to see the whole. How could the House judge until they had seen the whole? Our minister, Mr. Livingston, had intimated in his letter that if the President's message should be of a threatening character, it would probably help the success of the negotiation. Such, no doubt, was his opinion. But, suppose it should have a directly contrary effect. Suppose the threats in the President's message should suspend the negotiation entirely, would the gentleman from Massachusetts then say that the honor and the interest of the nation would require us to go to war? But, suppose again that the injurious effects of the executive threats should be done away by the refusal of the Legislature to sustain the President, would the two Houses be bound to sustain, by their action, the tone of a message which they did not approve? The honorable gentleman, if he had understood him, had said that, although the message was imprudent, yet the honor of the nation required that it should be sustained.

[Mr. ADAMS here shook his head.]

Mr. E. said he knew the gentleman had not said so in express terms, but to him his language implied as much. If it should happen that the threatening language of the message had been the effect of prejudice, and if it should turn out that those threats had hindered instead of helped the negotiation, what could be more proper than that the Houses, by their action, should do away its effect? It could be hardly necessary for him to say that he should be prepared to act as circumstances required. That time, he feared, was not very distant. Until the receipt and reading of the documents this morning, he had entertained a strong hope of some pacific arrangement; but the tenor of those documents, and still more the tone of the remarks which had been made upon

them in the House, went farther than any thing he had yet seen to show that all such hope was nearly at an end.

Before Mr. E. could give his assent to any thing like a definitive course of action, he must first know what effect the reception of the President's message had produced in France, and on what ground the rejection of our claim had been placed. He wanted to know whether the ground was the amount of the indemnity which had been allowed. He would only now say that he could not consent to any act of incipient hostility until he got all the information connected with the subject. He wanted to see the instructions to our minister; and he wanted, farther, to see the correspondence between him and the French Government. This was not a question to be decided upon under a temporary gush of feeling; it required calm and deliberate consideration. At such a juncture as this, was that House about to rush into hasty and precipitate legislation? Would it be led away by impassioned language, such as had been used by the gentleman from Ohio, [Mr. Lytle,] who had denominated the French King a juggling potentate? For his own part, Mr. E. had thought that the entire tenor of these documents went to show the utmost good faith on the part of the French monarch. Yet he had been accused of juggling, and his ministers of shuffling; and the House had been told that the honor of the nation demanded at its hands immediate action. Mr. E. did not think so. He was opposed to resorting to arms until negotiation had failed. And, in the hope that they should get a report imbodying views of a similar kind, he should vote for the motion of his honorable friend from Massachusetts.

Mr. CAMBRELENG said that the gentleman from Maine had convinced him that no further information was needed, for that which the House had already received had, according to the gentleman, extinguished all hope of a pacific result. Mr. C's own view corresponded, in some measure, with that which seemed to be entertained by the House. He could not but congratulate himself upon hearing from all sides of the House the cheering sentiment that the country ought to present an univided front. It was Mr. C's good fortune to concur both in the sentiments and spirit which the gentleman from Massachusetts had so admirably exhibited on the present occasion. It was the true ground of national honor, without which no Government could stand.

Mr. C. observed that, if the other branch of the Legislature had, at the commencement of this matter, assumed a bolder and a firmer stand, it would have been more consistent with the true dignity of that House and the honor of the nation. Unfortunately, the Government was divided. Some gentlemen were in favor of waiting and forbearing, in the hope that such a course would be attended with the happiest consequences. For his own part, he had been ready, from the first, to respond to the spirit and sentiments of the President's message, and either to adopt the measure recommended, or some other which should go to show to the French nation that this Government has determined to enforce the rights of its citizens; for, Mr. C. thought that, after years of insult on the one side, and forbearance on the other, farther forbearance would no longer be a virtue. In now requesting the gentleman from Massachusetts to permit this question to rest for the present, he was actuated only by a desire that, when the House did act, it should act unanimously—that it should speak but with one voice.

Mr. C. did not wish to advocate the measure which had been recommended by the President, because it was impossible at this time to obtain an undivided vote in its favor, and he therefore asked the House for some delay, in the prospect and hope of greater unanimity. He trusted that both branches of the Legislature would eventually come to one and the same ground. He now said to the gentleman from Massachusetts [Mr. Adams] that he was as anxious for a discussion of this important subject as that gentleman. He felt that on this question every moment of delay was infringing upon the period which ought to be given to debate and consideration, but hewa influenced by the high consideration of the importance of unanimity. He liked the suggestion of the gentleman from Pennsylvania, [Mr. Stewart,] and preferred it to the original motion; but if the gentleman from Massachusetts would consent to allow the committee a little time longer to consult, the House would be deliberating, as the nation was every day deliberating, on this important, subject. The result he felt inclined at once to fear and to hope for. It seemed to him that war would become inevitable sooner or later; but, be this as it might, any half measures would put the country in a worse situation than an exhibition of decision and spirit. He hoped that by the 20th of the month, if not before that time, the committee would be prepared to report, when the gentleman from Massachusetts would have an opportunity of fully submitting his views. He trusted that gentleman would consent to withdraw his motion; but, if not, then that some proposition resembling that which had been proposed by the gentleman from Pennsylvania [Mr. Stewart] would be adopted by the House.

Mr. PATTON. (Mr. P's remarks were frequently indistinctly audible at our reporter's desk.) Mr. P. was understood to say he had not, in the slightest degree, changed his opinion with regard to the propriety of a prompt and immediate report from the Committee on Foreign Affairs, upon the matter under consideration; but entertained the opinion, with unabated conviction, that it was their duty to the House, to the country, and eminently so to the President of the United States, whose opinions and recommendations upon this great subject had been committed to them for deliberation, that the committee, which constituted a merely incipient organ of the House for digesting materials for its action, should not delay one moment, after their own opinion and judgment had been formed upon the materials committed to them, in reporting their resolutions and deliberations for the concurrence, or for the disapprobation of the House. Entertaining that view, and entertaing, moreover, the belief—a belief deeply impressed upon his mind by the information communicated that morning, the material parts of which were before within the knowledge of the Committee on Foreign Affairs—that it was utterly hopeless to expect any decisive information from France, as to the action which would take place in the French Chamber of Deputies upon the bill making appropriations for carrying the treaty into effect, until after, or until very near the close of, the present session of Congress, he did then conceive, and he now conceived, that this subject ought to have been before the House for its deliberation upon the principles involved in the President's message, as well as upon the expediency and propriety of the particular measure of redress he proposed, and the expediency or propriety, at that time, of resorting to any measure of redress whatever. However his own opinions might differ from those of any other, or all the members of the Committee on Foreign Relations, upon that subject, it was, he humbly conceived, a matter that belonged not to the committee to decide or to conclude. It was not, he conceived, for them to forestall, but it belonged peculiarly to that House, unaffected and uninfluenced by the action of any other branch of the Legislature of the Government: it belonged to the popular body, to the immediate Representatives of the people of this country: it belonged to them in a peculiar manner, that, as soon as they had maturely deliberated upon the materials presented for their judgment, they should say to France, and to the country, what their

opinions, what their feelings, what their course, were to be upon this matter. As it was then presented, how did the facts stand? Mr. Livingston's despatch of the 22d of November showed that, according to the information obtained by him in Paris, the bill which the French King, (Mr. P. had no sort of doubt with the utmost sincerity, for he did not take the King's declaration in the literal sense of the terms in which it was couched,) had declared his determination to present to the Chamber of Deputies, as soon as it could be reasonably and judiciously presented, would not be presented to the Chamber for its consideration until the middle of January. All the information we have subsequently received, either from Mr. Livingston or from any private sources, went to satisfy us that this impression was correct, and that, in all human probability, instead of being presented earlier, it would not be till a later period. This was a question which, knowing as we did the feelings and opinions, and the conflict of opinions existing in France, and in the Chamber of Deputies, on this subject, would not be, could not be, promptly and immediately disposed of. And every one knew that, if the subject was not presented to the Chamber before the middle of January, it could not possibly receive the definite action of that body early enough for us to obtain any information of their definite action until the close, or near the close, of the present session of Congress. Mr. P. could not therefore perceive the propriety for further delay, nor did he the other day, when he offered to that House, and asked permission to present, for its adoption, certain resolutions containing the principles and opinions upon which he was prepared to show to the House that it was time the subject should come under its deliberation. More than two thirds of the session had elapsed, and only three weeks of it remaining, and there was just time enough that this subject, which was calculated to produce much conflict of opinion, and a great variety of propositions, as to what ought to be the course adopted, should be brought before this body, whose deliberations we all knew could not be promptly brought to a conclusion; they should have it in their power fully to deliberate upon the principles it involved, and as soon as they had come to an opinion, to express it in the form of resolutions or in the form of action. If there were any who, upon deliberation, should be of opinion that at that time it was prudent, proper, and necessary, to have action, it might be taken.

It was due, said Mr. P., to himself, and he felt it certainly due to the honorable and distinguished gentleman from Massachusetts, that he should say that he felt much satisfaction at the spirit of his remarks. He understood those remarks precisely as that gentleman had since explained them, viz: for not committing himself to the propriety of any particular measure at that time, but it was his opinion that this House owed it not only to the Executive head of the country, whose constitutional duty has made it necessary to present this subject and his opinions to their consideration, but also to the anxious feeling of the country, and to the great interests involved in this high, important, and critical question, that they should say whether they concurred in the views of the President, that this treaty was a valid and binding treaty. Whether they concurred in the opinion expressed by the President, that this country would not, and could not, acquiesce in the final refusal of France to perform the engagements entered into by her; or whether we should, in a manner perfectly respectful to France, and with a proper spirit of forbearance towards her, wait the further action of the French Chamber before we came to any final and definite conclusion on this subject.

These were the views, Mr. P. said, that prompted him throughout the whole affair. He still entertained a most thorough and undoubting conviction in the correctness of these opinions, but he was bound to regard, also, the decision of the House on a proposition submitted to them by himself. It may have been influenced by other considerations than his own, but he was bound to regard that vote, as it stood, as the opinion of the majority of the House, that they would not now compel the committee to report, as they would not then; for he did not suppose any thing had occurred since to change their judgment; and however contrary it might be to his own convictions of what ought to be done, he yielded, as it became him to do, with proper deference to what seemed to be the judgment of the House. Many gentlemen still thought that further delay ought to be allowed, and having every disposition to do all in his power to produce the most happy result, and being, with the gentleman from New York, [Mr. CAMBRELENG,] desirous to elicit a unanimous vote on this subject, he would, before he sat down, move that the resolution be so referred to the committee that they should report, on or before Monday week next. This proposition he thought would answer the views of all of those who thought further delay necessary, and he did not think the House should postpone it beyond that time; and if not presented to the House by that day, there would not be time to deliberate, but that day would still leave time for a patient, temperate, and judicious judgment upon it. Whether it should be necessary for the committee to recommend any legislative action or not, or what should be the particular tone of the report or the resolution, depended on the committee; for the proposition of the gentleman from Massachusetts left the subject perfectly open to the committee. Having indicated his own opinions, Mr. P. had not the slightest disposition to interfere in any way whatever with the judgment of the committee. All he asked was, that they should report, and he thought the day he had mentioned was the latest period that should be allowed. Mr. P. concluded by moving to modify the motion of Mr. ADAMS so as to make it read, that the committee should report on Monday week.

Mr. ADAMS signified his willingness to accept of the amendment proposed by Mr. PATTON as a modification of his own motion.

And the question now being on the motion as thus modified, viz: to instruct the committee to report on or before Monday week,

Mr. E. EVERETT observed that this did not appear to him to be a question of so much importance as seemed to have been given it in the present discussion. Whether the committee should be instructed to report on Monday week, or Monday fortnight, or forthwith, could not, he conceived, be a matter of great moment. There are but a little more than three weeks remaining of the session. What has fallen from the chairman of the committee, will, of course, be regarded by the House as an assurance that the committee will report before the close of the session. Such is my own understanding (said Mr. E.) of the purpose of the committee. That report cannot well be delayed many days beyond the time now fixed in the resolution as modified; and whether the report come a few days earlier or later cannot be, I should think, of great consequence. While, therefore, I am willing to concur in the passage of the resolution of my distinguished colleague, I should also have voted for it as first moved by him. I should have been willing that the committee should be instructed to report forthwith.

I have been in favor of the committee's reporting forthwith, from the beginning of the session. I thought it very important; highly desirable to do so. So much time has since elapsed, and the difference between reporting forthwith and reporting at as late a period as it can well be done, is so inconsiderable, that I attach less

consequence to it than I did. At the commencement of the session, I thought an immediate report from the committee would have done great good. I differ, on this point, from the gentleman from New York, [Mr. Cambreleng,] at the head of the Committee on Foreign Affairs. I think it would have been much better if we had reported long ago; if we had taken a ground like that assumed unanimously by the Senate of the United States, and which I understand the gentleman from New York to censure.

[Mr. Cambreleng explained, that he meant that it would have been better if the two Houses had adopted a prompt action and bold front at the commencement.]

Mr. E. continued. I was for acting as promptly and as boldly as the gentleman. It was precisely a prompt and bold course which I desired. I was not for war, nor reprisals, in the state of affairs then existing; and we are now told that neither of these measures was contemplated by any member of the House. What, then, could we have done promptly and boldly? We could have done this: We could have taken up the subject as one of eminent importance, admitting no delay in the consideration of the House. We could have shown the justice of the American side of the question, in the strongest terms. We could have uttered the feeling and views of this House, in the strongest and most emphatic language.

Having shown the justice of our claims, we could have expressed our resolute determination to stand upon our rights under the treaty. Our firm purpose not to relax one tittle, nor recede one inch, and we could have addued the reasons; and such reasons there were, which might be urged in support of the opinion, that France would yet do us justice. I would have had a report of this character, bold, firm, and pacific, and would have hoped for it the unanimous concurrence of this House. And here, sir, I should have been inclined to stop. I would have had the rights of the country maintained, and our purpose never to recede from them asserted. But what Congress would do in the contingency—somewhat distant of necessity, never perhaps to arrive—I think I should not then have said. I would reserve my action on the contingency till it ceased to be one, and when that should be the case, then I would act promptly and vigorously, under the state of circumstances which should present itself. But I should have been indisposed to anticipate that event, and would not, therefore, undertake to say what measures I would adopt, should it happen. But I would have asserted our rights so broadly and distinctly, as to leave me at full liberty to adopt any measures of redress which circumstances unfortunately might render necessary. The same course I would pursue now, though, from the lapse of time, I do not think all the good would result from it which might have been hoped from the earlier action of the committee. I agree with the chairman of the committee as to the character which the report must take. He says the committee are not prepared to recommend any measure. I so understand it. In the present state of our information, nothing of the kind alluded to, under the name of a measure, can be recommended. And, for this reason, I would still refrain from recommending any thing hypothetically, to be done upon the happening of a contingency, because the varieties of circumstances, the shades of human action, public as well as private, are infinitely too numerous to be foreseen.

I own, sir, my anticipations are not so cheerful as they were. I entertained a strong hope, at the commencement of the session, of the speedy adjustment of this painful controversy. In the interval, little, I must own, has occurred to strengthen, and more than I could wish to discourage, that hope. I begin to contemplate, as a possible event, that things will go to extremes. But I am not ready, and I think the House, though it may share this apprehension, cannot be ready, to act on this anticipation. Even if the French Chamber should refuse again to make an appropriation to execute the treaty, we cannot be sure that it may not be in a form, and with qualifications, that will justify us in further delay. We cannot know this, as we cannot know that the very reverse may not, by some deplorable fatality, happen. If, for instance, the suggestion of the gentleman from Ohio [Mr. Lytle] should be realized; if the French Government should accompany the refusal by acts of affront and violence—by a hostile attempt on the squadron of the United States in the Mediterranean; an attempt which, every one knows, would be resisted to the last drop of the blood of officers and men; then, sir, there would be no delay; there would be no need of instructing the committee to report forthwith; there would be no long debates in this House or the other House; but the two Houses, and the country, rising as one man, would take their position and sustain it. But I would not anticipate any such event as this. I would not take any step whatever, on the presumption that France, to the long denial of justice, to the signal injustice of which she has given us cause already to complain, could add a procedure of such outrageous madness. I will not say such a thing is beyond the range of possibility; nothing is impossible; but no gentleman, I think, on reflection, can consider it in any degree probable.

I have said already, sir, that my anticipations of the satisfactory adjustment of the business are less sanguine than they were. There are, however, some reasons for hope that the French Chambers will make the appropriation this winter. One of the chief reasons is, that the Chamber of Deputies of last year contained some members by no means entitled to the compliment paid to them by the gentleman from Kentucky, [Mr. Johnson,] of having understood the question thoroughly, and not having rejected the appropriation through ignorance. On the contrary, sir, there was exhibited, in my opinion, an entire ignorance of some of the most important facts of the case, and, in reference to the most important of them all, a gross, not to say a discreditable ignorance, which I believe proved fatal to the passage of the appropriation bill, and which, should the two countries most unhappily be brought into collision, will throw a tremendous responsibility on those members.

You are aware, sir, that, on all sides, it was admitted that something was due to the citizens of the United States, and that it was merely on a question of how much, that the great issue of annulling or executing a treaty was made to depend. In this state of the controversy, and just as the question was about to be taken, members arose in the French Chamber, and stated that, of the five millions of indemnity provided by the treaty under discussion, two millions, covering the St. Sebastian's cases, had already been paid under the Florida treaty between the United States and Spain! The assertion was immediately contradicted by the Minister of Foreign Affairs, whose exposition of the whole question was one of the most masterly parliamentary efforts I have seen. His contradiction was direct and positive, as to its purport; but, if one may judge from the report of the debates, (very likely imperfect,) it was less decided and authoritative in manner than could have been desired. At all events, I have been told, by an intelligent American gentleman who was present on the occasion, that these statements were evidently fatal to the bill. The question was taken immediately after. It was lost by only eight votes.

We know, sir, that deliberative bodies may be taken by surprise, by plausible statements. Were we ourselves about to appropriate five millions of dollars in payment

of an acknowledged debt, and should member after member rise, with a treaty in their hands, maintaining that two of the five millions had been already paid, and read us passages of the document to prove it, and if any thing short of the most positive contradiction, accompanied with the most satisfactory explanation, were given, it would very likely prove fatal to the bill; certainly so, if the House were almost equally divided before. For these reasons, as I said, I rely something on the fact that the bill was rejected last winter, not in a full understanding of the facts, as the gentleman from Kentucky seemed to think, but in an entire ignorance of the most important of them all. And when the memoir, which has been mentioned in Mr. Livingston's despatches today, shall have proved to the French Chamber, (as I presume it will do, from the character of some of the documents which, during the recess of Congress, have been furnished to the French Government at its request, by ours,) that the statements I have alluded to were utterly destitute of foundation, that the St. Sebastian's cases were all rejected by the commissioners under the Florida treaty, as not included in its provisions, and that they have been all admitted by the commissioners now sitting under the present treaty, as notoriously provided for by that treaty, I trust it will not be without its effect.

But I do not build with entire confidence on this, or any other ground of encouragement. I see something ominous in the character and composition of the opposition to the King and his ministry on this question. What did the King tell Mr. Livingston? That he might rely upon his honor as a King, and his promise as a man, that the treaty should be executed. For myself, I place the most unqualified dependence on this assurance. I believe that, as far as his influence extends, it will be strenuously exerted; that his constitutional powers will be strained to the utmost, to procure the execution of the treaty. But what, sir, is the melancholy truth, as to the condition of the King's Government? I would not in wantonness say any thing disparagingly of the internal condition of affairs in a country between which and our own the relations of amity still subsist; but when our own rights and claims are made the sport of the state of parties in a foreign country, it is a fair subject of comment. The King will do his utmost to effect the fulfilment of the treaty, and not merely because it is a just treaty, but because (as he told Mr. Livingston) his faith as a sovereign, and his honor as a man, are pledged. But what is the position of the King himself? Does not all the world know that he does not fill the throne on the principles of what is called legitimacy? That there are two powerful parties in France, agreeing in nothing else, but united in opposition to the present establishment of the Government. I mean, of course, the party of the late dispossessed family, on one side, and the extreme liberals on the other. It is, as far as we can judge at this distance, mainly a combination of these two parties, taking along with it, of course, the natural opposition to all heavy money bills, which has hitherto defeated the execution of the treaty.

With these two parties, instead of our gaining strength from the circumstance that the King's regal word and personal honor are pledged to fulfil the treaty, it is precisely for this reason that they oppose it. And they oppose it, not with a zeal measured by the simple merits and consequence of the treaty, but with an intensity of purpose, and depth of feeling, inspired by their hostility to the Government. Seeing the opposition to the treaty thus conducted by parties, who would move heaven and earth to shake the King from his throne, I own, sir, I look to see this question linked in with the very elements of the permanence of the present order of things in France. Could it be reduced simply and solely to this issue, all might be well; but with this powerful, deep-seated, far-reaching opposition, we must fear, as I have said, that what may be called the natural opposition to all such measures will unite itself. The King will do every thing to carry the treaty into effect. I am sure, if it were necessary, he would shed his blood to fulfil it. I should hear with deep regret a single word that would cast a shade of doubt on his sincerity. But whether he will even be able to sustain himself, who shall vouch? I trust he will. I believe it highly desirable for the peace of France, and the harmony of Europe, that he should. I have little doubt, should his Government be overturned, it would be followed by disastrous consequences, not unworthy the high breach of faith toward the United States, with which the war against it seems to have commenced.

Sir, I reciprocate the sentiment of the chairman of the committee; I hope the House will act with unanimity on this subject. I trust we shall not allow ourselves to split on any subordinate questions. That of the present reference surely ought not to divide us. On a question of such great magnitude—if things are to go to extremes—it cannot be expected, nor asked, that, on every point involved, all should think alike. Independent men, on such points, must differ. Those who think for themselves, that is, who think at all, must differ, to some extent, on such subjects. But if the worst come to the worst—if France shall make up her mind to withhold justice from us deliberately and conclusively, and in such a manner that true policy and honor will no longer admit of delay and forbearance—then, sir, I believe, whatever difference of opinion there may be as to any point of secondary consequence, that Congress and the country will move unanimously in the direction which its rights and honor shall point out.

But I think we should do nothing by way of anticipating that contingency. It may never arrive. Every man, I will not say of common humanity, but of common sense, in the United States and France, must hope it never will arrive. When it does, there will be no division of feeling. I am satisfied, from the expression of opinion here, and of public sentiment throughout the country, that we shall come to this result; and however this matter of reference may be disposed of, (which at this late stage of the session I regard as of diminishing importance,) I believe that in a firm resolution to stand on our rights, under the treaty, we shall be unanimous.

Mr. GILMER, of Georgia, said that he felt himself called upon, by the remarks which had fallen from the honorable gentleman from Massachusetts, [Mr. ADAMS,] as well as by the motion which he had introduced, requiring the Committee on Foreign Affairs to report at an early day, to present the reasons why he could not accord in opinion with that gentleman, nor vote for the motion which he had made. The proposition of that gentleman was founded on the belief that the House was bound in honor and policy to act upon the French question during the present session; and that, unless the committee should report by Monday week, the session was in danger of elapsing without any due discussion of the subject or action upon it. If Mr. G. believed in the supposed necessity, he should certainly approve and vote for the motion; but if it was true that the House could not and ought not to act upon that subject at all, then the motion was improper, and ought to be rejected. Why was the House bound to act? Because it was in possession of all the facts which were necessary to enable it to act definitively in the case? Surely not; and if the House did not possess the facts it ought not to act, because it was improper to act without them. Might it not happen that, at the time pointed out, the House would still be without the requisite information? So far as they could now see, nothing was more probable. And how, then, could it, with pro-

priety, act at all? The course to be pursued depended on the state of this question: has the French Government refused to carry into effect its treaty with the United States? The House could act on no other ground, and all the threats about what we would do, and all pledges given beforehand, as to the course to be adopted, were untimely, impolitic, improper, and calculated to do nothing but injury. The question of peace or war was an important one. It was the greatest question on which the nation had to pass. It not only touched the public honor and interest, but it came home to the concerns of every citizen. On such a question, why did gentlemen urge the House to act before it could act understandingly? Were they not all agreed that the Government of this country was so constituted that we ought never to go to war but after the greatest practicable forbearance? Was not peace our avowed policy? Why, then, should we enter into these premature discussions? The reflections and menaces thrown out under such circumstances, were unworthy of the House and injurious to the character of the nation. He had heard much said about the national honor, and about the necessity of vindicating the national honor. But, after all, what were the rules of this national honor, of which gentlemen spoke so much and so loudly? By what was it to be regulated? It might do when crowned heads fell out about questions of personal dignity, or interest, to talk about rules of honor, and about being bound by their honor to resent each other's acts. But the principles which actuated and governed this nation, and which, he trusted, would ever guide this Government, were not the capricious rules of a fancied honor, but the doctrines of national law. If war should come, gentlemen would find that it was not to be carried on by flourishes of rhetoric.

In the propriety of resorting to such an expedient, many very serious questions were concerned, and he thought it would be better for gentlemen to forbear the expression of an opinion until they possessed a full knowledge of the extent of the injury they had received, and before they had maturely reflected upon how far it was necessary for us to go. A great variety of views ought to be looked at and compared, before the House ventured to commit itself and the nation. Were not gentlemen aware that the treaty, which was the basis of the dispute, did not sustain the law of nations? He would ask, what was the injury inflicted by the Berlin and Milan decrees? Was it a wound upon the national honor? And if it was, had France pretended to offer any compensation to heal the national honor? Far from it. She had utterly refused to consider the question of honor at all. She had not pretended to offer any atonement to the national pride. The treaty upon which gentlemen so much insisted, left the national honor just where it found it; and yet gentlemen were talking precipitantly and vehemently about the national honor. He considered all such language as at this time improper. He was not yet prepared to say what circumstances would warrant a resort to arms. He did not yet know the definitive course of the French Government. It seemed to be admitted by all that we had not yet sufficient cause for war, and should not have before we learned the final determination of the French Chambers. Why, then, compel the committee to report on Monday week? The House did not know what France had done. It could not act till it did know. When that intelligence was received, the action of the House would no doubt be such as a deliberate view of the case should point out as due to itself and the country.

Mr. STEWART inquired whether the motion of the gentleman from Massachusetts, as now modified, left it discretionary with the committee to report sooner than the day specified, if they should deem it expedient.

The CHAIR replied in the affirmative.

Mr. STEWART moved to amend it by striking out "Monday week," and inserting the "twentieth of this month." Mr. S. said that he differed in opinion from the gentleman from Georgia, who had just taken his seat, and who held that the House could not with propriety act until it knew the definitive determination of the French Chambers. He thought that, before that information was received, the House might act provisionally and prospectively. But the action of the House did not imply war. There were other alternatives to which this Government might resort, to coerce that of France. In voting for the present motion, no gentleman committed himself as to the course to be pursued. There were measures short of war, which perhaps might be more effectual than war or reprisals. Congress might proclaim a non-intercourse, or it might levy prohibitory duties, and thus strike at the vitals of the French commerce. All these courses were alike open to the Government. Suppose the Chambers should refuse to act definitively, might not Congress declare that, unless the French Government complied with its engagements, we would exclude her commerce from our ports? In what position would such a declaration place the two nations? It would throw the responsibility entirely upon France. It would present to her two alternatives, and leave her to choose. Such a measure would deeply affect that country. The United States were among her best customers. We took her wines, her silks, her brandies, &c., to the amount of fifteen millions of dollars every year. Was it probable that the people of France would sooner sacrifice such a commerce than pay us our five millions of dollars? Mr. S. said he was prepared to act now prospectively; he was prepared to present this alternative to France; he was prepared to say we will have no further intercourse with you, till you do us justice, till you pay the debt you acknowledge you owe. Would France sacrifice her honor and her immense commerce with this country rather than pay this pittance of five millions? The people of France, her manufacturers, so deeply interested in our commerce, would coerce the Chambers to pay this debt, which by war we might lose for ever. He hoped the present Congress would not adjourn without acting on this subject, and when they did act, he hoped they would act with unanimity: this was of the utmost importance. Party should give way to patriotism on such an occasion as this. Differ as we may as to our domestic policy, when the question is with a foreign Government, we should present a united front, and act as one man.

Mr. HAWES now adverted to the lateness of the hour, and moved an adjournment; but it was negatived without a division.

Mr. WHITE, of New York, asked a division of the question, so that the question might first be taken on referring the papers, and then on instructing the committee to report.

Mr. HAMER inquired of the Chair what had become of his amendment, which proposed to strike out all instructions from the motion.

The SPEAKER replied that the motion had since been modified by the mover, in the clause to be stricken out; but if the gentleman still wished that clause stricken out, his amendment would be in order.

Mr. HAMER thereupon renewed his motion to strike out all instructions to the committee.

And the question being on this amendment,

Mr. ADAMS said that he had expressed his willingness to modify his motion as to the time allowed the committee to report; but, if the House should conclude against instructing the committee at all, he should consider it as amounting to a rejection of the motion.

Mr. CAMBRELENG suggested a measure by way of compromise. If the gentleman from Virginia [Mr. PATTON] would change the form of his amendment so as to limit the committee to the 20th, he trusted it would satisfy the gentleman from Ohio, [Mr. HAMER,] who, as he hoped, would consent to withdraw his amendment.

Mr. PATTON said he had no objection to fixing the date on the 20th.

Mr. ADAMS said that, though he preferred Monday week, if the House were more in favor of the 20th, he should willingly acquiesce.

Mr. ARCHER, though imperfectly heard, was understood to say that it was very desirable that the House should act, if possible, with entire unanimity, not only in its final determination, but also in this incipient measure; but a determination having been expressed by his friend from Georgia, [Mr. GILMER,] to oppose the motion, Mr. A. would take this opportunity to say that he should not vote for accompanying it with any instructions. He put it to his honorable friend [Mr. ADAMS] to say, what would be gained by thus coercing the committee? Was it not most unfit and impolitic, especially in the state of feeling that had been exhibited, to trammel the House in any way? He put it to gentlemen to say whether, with the views that had been expressed on that floor to-day, the House ought not to be left at the most perfect liberty to direct the action of the committee at any moment it might think fit? Suppose important news should be received from France, how would this House be situated then? It would find itself trammelled by its own instructions, with one of the documents hung up in the House, and with no power to place that document before the committee, although it was obvious they ought to have it. Suppose nothing should arrive from France, still the House must wait till the 20th, although at the risk of appearing to shrink from action or responsibility. In either case the effect must be to hamper needlessly the deliberations of the House. Nothing could be gained, and much might be lost, by adopting it. Why, then, would the gentlemen [Mr. ADAMS and Mr. PATTON] persevere in pressing it upon the House.

Mr. PATTON, in reply to the suggestion of his colleague, [Mr. ARCHER,] said that he apprehended his colleague must labor under some misunderstanding of the character and effect of the proposition of the gentleman from Massachusetts. That proposition did not propose, and its adoption could not commit, or trammel, or fetter the action of the House in the slightest; it did not even interfere with the judgment of the committee, as to what should constitute the tenor and character of their report; all that was done was to require them to report by Monday week. He thought, therefore, that full justice was not done to the motion of the gentleman from Massachusetts, when it was said that the adoption of his motion would be equivalent to a declaration of war. I (said Mr. P.) am as little inclined as the gentlemen from Georgia [Mr. GILMER] and Virginia [Mr. ARCHER] are now, and under the present state of the subject, and of our information, to adopt the measure of reprisal, or any other measure of self-redress. But I think we ought to take the subject into consideration, and decide whether we will await the definite action of the French Chambers. Inauspicious as the present aspect of affairs certainly is, Mr. P. said he would still refrain from taking any measure of hostility against France; he would show the utmost possible forbearance, and every just dependence upon her justice. In the hope, with the possibility that France would not persevere, he would still await the issue, "prepared for either fortune," with a proper reliance upon the honor and integrity of France to do us right, and a firm and steady conviction that we need not, cannot, must not, submit to wrong; flagrant, grievous, persevered in, and unredressed.

The House adjourned.

MONDAY, FEBRUARY 9.

PRINTER TO CONGRESS.

Mr. McKINLEY, on leave, submitted the following resolution:

Resolved, That this House will, on Thursday next, proceed to the election of printer to the House of Representatives of the next Congress.

Mr. ROBERTSON said he hoped the resolution would not be adopted. A few days ago, he had himself offered a resolution providing for the abolition of the office of printer, both to the House of Representatives and the Senate of the United States, and he hoped it would be the pleasure of the House to consider this resolution before proceeding to adopt that of the gentleman from Alabama, binding the House to proceed to the election of this officer on a given day. If it were the pleasure of the House, Mr. R. would regard it incumbent upon him, at that time, to submit to the House, briefly and concisely, the views which had led him to the conclusion that the office in question ought to be abolished, and which would recommend his own resolution to the favorable attention of the House.

The CHAIR remarked that it would not be in order, the subject under consideration being the resolution of the gentleman from Alabama.

Mr. ROBERTSON asked leave of the House to proceed.

The CHAIR said the gentleman might proceed to offer any remarks applicable to the resolution just presented.

Mr. ROBERTSON was not aware of the precise mode by which he could attain his object, but he had supposed it would be in order, in discussing the propriety of the resolution offered by the gentleman from Alabama, to show what was the purpose of one, relating to the same subject, offered by himself on Saturday. The more so, as the latter proposed to abolish the office itself, for the appointment of which the other had set apart a given time. He should not occupy much time in urging the reasons which had induced him to propose that resolution to the House.

There were a few considerations that at once presented themselves in connexion with this question. It had been said that there was, in point of fact, no such officer as that of printer to the House, or printer to the Senate; that it was nothing more than a mere contract; and that the mode of appointment, by which he was elected annually or biennially, was nothing more than the designation of the individual with whom the contract was made. To his mind, however, it appeared to possess all the features that constituted an officer, in its most comprehensive sense; like other officers, he was regularly nominated, brought into competition with other candidates, and was elected by regular ballot. In this point of view he was an officer, and the question then presented itself, which was amply discussed on a former day, whether he was properly an officer belonging to the Government of the United States, or a peculiar officer of the respective Houses to which they were elected. If he be an officer of the Government, he can only be so from being designated as such in the constitution of the United States, or because he had been, under the constitution, created by law. Now, the printer to either House of Congress was not a constitutional officer of the United States, because he was nowhere designated in that instrument; nor, so far as Mr. R. was able to find, was there any law by which he had been made such. There was certainly a joint resolution of the two Houses, providing for the

time and manner of his election, but a resolution was no law, and ought not to be regarded as of the same force. The constitutional provision authorizing the creation of officers of law could not be set aside or obviated by a mere resolution.

The next question was, whether the printer to the House was a peculiar officer of the House itself? The constitution authorized each House to elect its own officers, but that provision never could have contemplated the right in each House to create as many officers as they choose. It could only have referred to such officers as were necessary and essential to the organization of the body, and over which they must necessarily have control; such were the Speaker, the Clerk, the Sergeant-at-arms, &c. Was the public printer an officer of this description? Could we pretend that he was? We could not. For the first thirty years of our Government, the House had been regularly organized without any such officer; but what was the argument on the other side? Why, that the public printing must be provided for by law, and that Congress must necessarily have its printing executed. He freely acknowledged that there was a necessity that Congress should have its printing executed, but it was equally necessary that Congress should have a room, and that that room should be furnished with seats, stationary, &c., for their use; but it did not, therefore, follow that they must elect officers under the designations of architect, stationer, and upholsterer, to each House. But even were it so, that the printer was regarded as the peculiar officer of the House, there arose this objection, which he had never yet heard answered, although often urged in that House: What right had one Congress to elect an officer who was a peculiar officer of the House, to hold his office at the ensuing Congress? They would have as much right to elect the Speaker, Clerk, Sergeant-at-arms, or Chaplain, as the printer, if he be considered an officer of the House.

But there were even more important objections to the adoption of the resolution of the gentleman from Alabama than those founded on the constitutional right of that House to create or fill such an office as that of public printer, and which would be removed by the adoption of that offered by Mr. R. on Saturday. It would remove from that House, what he thought very essential should long ago have been removed from it, the ground of the strong party excitement that always took place, and produced such angry discussion for the mastery of the public press, by one or the other of the contending parties. Mr. R. conceived the public printing ought to be provided for in such a manner that he who looked to it should look to it only as concerned the public good; and the only thing to be looked to by that House should be the conduct of the printer, not for the benefit of any political party, but for the benefit of the community. His plan would do this; and, if adopted, would avoid what invariably took place, an excited debate and angry discussion, calculated to do no good, but productive of the reverse. He was for placing the office in the hands of him who would execute the duty best. Why was it that they did not find it necessary, in regard to other contracts, or essential for the good government of the country, to elect other officers upon party principles? Mr. R. would have the press, as the constitution of his country intended it should be, free and unshackled—not merely free from the force and influence of the Government, but free from that more dangerous influence to be exerted by means of the public money. He would have the press untrammelled, unshackled, the palladium of our liberty and of our rights, and no longer the vehicle of dirty abuse and disgusting slander. The press should be protected from the effects of this influence, as well as from that patronage exerted by different branches of the Government. What could be expected from a printer to the House, to the Senate, and to the Executive or the administration, but that every abuse committed by every one of these departments would be overlooked or vindicated by the printer to each? There was no doubt that the public press of this country would be at all times sufficiently under the control of party; but he trusted in God that parties would be allowed to fight their own battles by themselves, and not have the influence and patronage of the Government thrown in their way. Upon these grounds, and solely upon these grounds, said Mr. R., he had submitted his proposition on Saturday last; and, in doing so, he looked to the support of no printer, of any party. It proposed to distribute the printing among those who would faithfully execute the work, and he hoped the resolution offered that morning would not be received; and he would also beg leave to state that a motion was then pending in the other branch to dispense with the joint resolution under which the printer to that body was elected.

[The Chair said it was not in order to allude to the proceedings of the other House.]

Mr. R. said he had merely adverted to the fact; and, having said all he intended, he again reiterated the hope that the House would not adopt the resolution of the gentleman from Alabama.

Mr. SUTHERLAND moved to amend the resolution by inserting the words "viva voce."

Mr. McKINLEY accepted the amendment. He did not know that it was necessary at that time to enter into a discussion upon the question whether the printer to the House of Representatives was an officer or not; or to inquire whether a joint resolution had the force and validity of a law.

[Mr. Chilton Allan called for the orders of the day; but the House did not second the motion, the hour devoted to morning business not having expired.]

Mr. McKinley resumed. It was a little singular that, whenever this question came up, there was always a disposition, by those who had not the power to elect, to interrupt its course by raising the question that it was not proper for one Congress to elect a printer for the ensuing one. He would admit that this House had not the right to impose a printer upon the next House of Representatives against its will; and he would freely admit that it belonged exclusively to the House of Representatives to elect their own officers, and that had always been his opinion; and he would go further, and say he believed that the next House would have the right to accept or reject the printer elected for them, as they might think fit. But as the present practice had existed for some fifteen or sixteen years, during six or seven Congresses, why should they now all at once stop in proceeding to this election, merely because a portion of an opposition think otherwise? Mr. McK. then alluded to what he had understood had fallen from Mr. Robertson, with reference to the impropriety of electing editors of newspapers, and said he considered it a question altogether for those who elected the printer, and saw no reason why they should be proscribed, whether he was the editor of a paper or not.

[Mr. Robertson explained, and said he must have been misapprehended; for neither in his remarks nor in the resolution had he contemplated any proscription. He asked leave that the resolutions be read; and,

Mr. McKinley giving way, they were read accordingly.]

Mr. McKinley continued. He may have misapprehended a part of the language of the resolution, but he believed himself correct, that the gentleman in his remarks complained that public patronage ought not to be extended to editors of newspapers. It seemed, however, that if the printer were not a friend of the admin-

istration, there was no danger of his being bribed. Indeed, experience had proved that the gentleman was mistaken; for he thought the present printers to this House could not be charged with undue partiality to the present administration. He still believed the House of Representatives to be the proper body to designate their own printer, according to the resolutions of 1819 and 1827. The duties of the officer might be prescribed by Congress, but the House has the right to choose the printer, and any printer in the United States had the right of being a candidate for the office, whether he was the editor of a newspaper or not. Mr. McK., after some further remarks, said he felt disposed to go into the election of a public printer; and he hoped that one friendly to the national administration would be appointed. He also maintained the principle of electing that officer viva voce.

The discussion of the resolutions was here arrested by a motion, by Mr. CHILTON ALLAN, to proceed to the consideration of the orders of the day; which carried.

CHOCTAW RESERVATIONS.

The SPEAKER laid before the House the following message from the President of the United States, which was read and referred to the Committee on Public Lands:

WASHINGTON, *Feb.* 6, 1835.

To the House of Representatives:

I submit to Congress a report from the Secretary of War, containing the evidence of certain claims, reservations under the fourteenth article of the treaty of 1830, with the Choctaws, which the locating agent has reserved from sale, in conformity with instructions from the President, who did not consider himself authorized to direct this location.

Should Congress consider the claims just, it will be proper to pass a law authorizing their location, or satisfying them in some other way.

ANDREW JACKSON.

Mr PLUMMER said that, at the last session of Congress, the Committee on the Public Lands on the part of the Senate were instructed to investigate the conduct of the land officers in Mississippi, and the chairman of that committee was authorized to conduct the investigation during the recess. The result of that investigation has been reported to the Senate, and is contained in Senate Document No. 22. Among other matters inquired into during the investigation, was the conduct of Colonel George W. Martin, the agent who made the locations referred to in the message just read. His character, where his conduct is not known, has suffered under the charge. Mr. P. had read the testimony, and, so far as he was capable of judging from a thorough examination of the subject, he considered that the agent stood honorably acquitted from any thing like fraudulent or improper conduct in the discharge of his duties. To prevent the charge of fraud against the agent from being raised to the prejudice of the claimants, and that the conduct of the agent may be fully brought before the committee in its aggravated form, he moved that so much of the testimony as related to the official conduct of Colonel Martin be referred to the same committee to which the message of the President had been referred.

The motion was agreed to.

Mr. DICKINSON suggested that the reference just made more properly belonged to the Committee on Indian Affairs, particularly as subjects connected with it were already before that committee. He would move that the papers be referred to the Committee on Indian Affairs, instead of the Committee on the Public Lands.

The CHAIR said this could only be done by unanimous consent, or by a reconsideration of the vote referring the subjects to the Committee on the Public Lands.

Mr. PLUMMER objected to the motion.

Mr. CAGE moved a reconsideration of the vote.

Mr. PLUMMER thought the Committee on the Public Lands the most appropriate reference, and should therefore vote against a reconsideration, but had no particular objections to the subject going to the Committee on Indian Affairs, if that should be the desire of the House.

The motion to reconsider prevailed, and the documents were referred to the Committee on Indian Affairs.

On motion of Mr. PLUMMER, the vote taken on referring the testimony taken before the committee of the Senate was reconsidered, and the same referred to the Committee on Indian Affairs.

TERRITORIAL BILLS.

This day being specially set apart for the consideration of bills relating to the Territories,

Mr. ALLAN, of Kentucky, moved to commit to a Committee of the Whole on the state of the Union the several bills, in relation to the Territories, which had been referred to a Committee of the Whole House; which was agreed to.

The House then, on motion of Mr. ALLAN, of Kentucky, resolved itself into a Committee of the Whole on the state of the Union, (Mr. POPE in the chair,) and took up the several bills in relation to the Territories; after considering sundry of which, they were laid aside, and the committee took up the bill to establish the

TERRITORIAL GOVERNMENT OF WISCONSIN.

Mr. LYON, of Michigan, moved an amendment to the bill.

Mr. HAMER moved, as an amendment to the amendment, a provision describing and fixing the northern boundary line of the State of Ohio.

Mr. WHITE, of Florida, rose to a point of order. He asked whether it was in order to move such an amendment to a bill organizing a new Territory. If so, the object of setting this day apart for the consideration of territorial business would be defeated, as the whole day would be occupied with a controversy as to the boundary line between Ohio and Michigan.

Mr. J. Y. MASON said there was an additional objection. The provisions of one bill, already before the House, could not be moved as an amendment to another.

The CHAIR decided that it was not in order to move the amendment.

Mr. VINTON asked leave to give his reasons for thinking that the motion was in order.

Mr. J. Q. ADAMS said the gentleman could appeal from the decision, but stated some reasons in support of the decision of the Chair.

Mr. VINTON appealed from the decision of the Chair, and spoke earnestly in opposition to the decision.

The question of order was further discussed by Mr. LANE, and

Mr. LYON, of Michigan, who said he was very sorry that the gentleman from Ohio had taken this occasion to introduce a question which would occupy a week, and which was foreign to the subject under consideration. To remove all pretext for the amendment, he would withdraw his motion to amend, to which it was attached.

On motion of Mr. LYON, the blanks in the bill were filled so as to fix the salary of the Governor of the Ter-

ritory at $2,000; of the Superintendent of Indian Affairs at $1,000; of the Judges at $1,500; and of the Secretary at $1,500.

Mr. HAMER then offered his amendment as an additional section of the bill.

Mr. LYON made the question of order upon the motion, as it introduced, substantially, the provisions of another bill, and had no reference to this bill.

The question of order was discussed by Messrs. HAMER, EWING, VINTON, J. Y. MASON, ALLEN of Ohio, and MERCER; when

The CHAIR decided that the motion was not in order.

Mr. REYNOLDS then offered an amendment fixing the boundary line between the Territory of Wisconsin and the State of Illinois at forty-two degrees and thirty minutes of north latitude.

Mr. LYON said this motion was objectionable, on the same ground with the former motion.

The CHAIR decided that the motion was in order.

Mr. J. Q. ADAMS called for the reading of the bill fixing the northern boundary of the States of Illinois, Indiana, and Ohio.

Mr. VANCE appealed from the decision of the Chair.

The discussion on the question of order was further continued by Messrs. VANCE, MASON, FILLMORE, MILLER, MERCER, WHITE of Florida, VINTON, and VANCE; when

Mr. VANCE put an end to it by withdrawing his appeal.

The debate upon the bill was resumed; and, having been continued by Messrs. McKENNAN and HAMER,

Mr. EWING offered an amendment which went to strike out that clause of the bill which declares that the southern boundary of the Territory shall be a line drawn east from the southern extremity of Lake Michigan, and insert the northern boundary line of the State of Indiana.

Mr. MAY and Mr. VINTON having briefly addressed the Chair,

Mr. REYNOLDS remarked that, if the gentleman from the Territory of Michigan [Mr. LYON] would agree to the amendment, there would be no further controversy about it. He believed the gentleman to be a candid and frank member; that if he wished not to intrude the new Territory on the State of Illinois, or to have the case of boundary open for a controvery, he would close in with the proposition offered by Mr. R., and the case of Illinois would be decided, and he would not contend any farther on the question of boundary; but let the honorable members from Ohio, and the honorable delegate, battle out their own disputes. The gentleman from Michigan [Mr. LYON] declining to accede to the amendment, Mr. R. proceeded to remark that the non-acceptance of the amendment to fix the southern boundary of the new Territory at latitude forty-two degrees thirty minutes north, was conclusive that the honorable gentleman, and perhaps the people of the new Territory, would have claims on the Territory of Illinois north of the line which runs east and west through the southern bend of Lake Michigan. Such disposition, manifested on the occasion by the gentleman, and the controversy at this time warmly agitated between the State of Ohio and Michigan Territory, would show this committee at once the necessity of a prompt action on the question; and the necessity, also, of defining expressly and positively the southern boundary of the contemplated Territory. It was idle to say that there was no dispute about this question, and it was useless to say that it was not interesting to the people of Illinois. The mere agitation of the question would injure the country. This disputed territory would embrace the fairest portion of Illinois. It would extend south eighty or one hundred miles, and clear across the State east and west from Lake Michigan to the Mississippi river. This section of our State includes many growing and flourishing towns and villages. The lead district is in it, and the outlet into the lake of the canal connecting the Illinois river with Lake Michigan is also in it. The towns of Chicago and Galena, which are rising commercial towns, and the country in general, would wither and decay during the pendency of a controversy of this character and magnitude, should it be delayed for the action of a court of justice on it. He remarked, the people of Illinois would not, in this controversy, or in any other, indulge in the doctrines of nullification, disunion, or dismemberment; but they would insist on their rights, which have been recognised in the constitution of their State, made in pursuance of an act of Congress. They would cling to the limits of their State with such pertinacity as became a free and independent people in a just and righteous cause. They would not be divorced from this flourishing section of their State, including the outlet of their canal into Lake Michigan, and all connexion with the northern lakes, on any small consideration.

The constitution of the State settled this boundary, it is true; but even on subjects of such permanency and immutability there may be disputes. We see it is disputed, or else the gentleman from Michigan [Mr. LYON] would at once agree to the amendment, and this debate and the controversy, as it respects himself, would immediately subside. Mr. R. observed that the committee would see the necessity of deciding this controversy at this time, when they had it in their power. They had the constitutional power to define the limits of the new Territory. No one wished the boundary of Illinois to be touched or interfered with; but it was "expedient" and necessary to define the limits of the new Territory, so as to quiet and remove all causes of dissatisfaction and dispute hereafter. To show the necessity of an action on this case, only look at the warm and vexatious controversy between the State of Ohio and Michigan Territory. It is expedient to settle this controversy at this time, before the new Territory has its existence. It is doing an act of justice to the new Territory, as well as to the State of Illinois, to quiet and remove for ever any and every cause of future disturbance and disquiet. Then the State of Illinois will enjoy, in peace and quiet, her territory and her jurisdiction to her northern limits, which her constitution has guarantied to her. This constitution has been made in pursuance of an act of Congress, passed in 1818, authorizing the people of the Territory of Illinois to form a constitution and State Government, and which State, so formed, was admitted into the Union with the limits as prescribed in the constition. This course of proceeding showed the sense of Coegress on the ordinance of 1787, made for the government of the people of the Northwestern Territory. Congress, as early as 1802, expressed an opinion on this ordinance in the admission of the State of Ohio into the Union. They considered the ordinance then, and they have so considered it ever since, down to a very recent date, as changeable by their legislation. It is, in fact, nothing more than an ordinary act of Congress, changeable, like other acts, for the public good.

The act or deed of cession of the State of Virginia, which was made in the year 1784, by which the country in question was ceded to the United States, prescribed the extent of the States to be formed in it. Congress, in the year 1786, requested the State of Virginia to change and alter her act or deed of cession, "so as to empower the United States in Congress assembled to make such division of the territory of the United States lying northerly and westerly of the river Ohio, into distinct republican States, not more than five, nor less than three, as the situation of that country and future circumstances may require.

The year following (1787) the Congress of the United States passed what is called the ordinance or act of Congress for the government of the Northwestern Territory. This act was passed before the State of Virginia acted on the recommendation of Congress requesting the power to alter the extent and limits of the new States to be formed in said territory. In the fifth article of the ordinance there is contained this provision, to wit: "Provided, however, and it is further understood and declared, that the northern boundary of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southern bend or extreme of Lake Michigan." In the year 1788, Virginia consented to the request made by the United States, and "ratified" the provisions made in said ordinance of 1787.

Mr. R. said he referred to these acts of Congress, and the deed of cession of Virginia, to show that there existed no restriction or "compact," between the State of Virginia and the United States, on the subject. Virginia had transferred all her power over the ceded territory to the United States. It will be seen by the request made by the United States to Virginia, and by the consent of Virginia to the recommendation, that both the United States and Virginia understood the subject-matter of the boundary of the new States to be under the control of Congress, "as the situation of that country and future circumstances may require."

According to the most rigid and illiberal construction of the act of Congress, which calls itself a "compact," Congress had "authority" to form one or two States north of this celebrated line, the extent, size, and shape of which were left in the discretion of Congress. That body had full power to act in the case as it pleased and found it "expedient." There is no obligation imposed on Congress that these new States, or Territories, shall be bounded on the south by this east and west line running through the southern bend of Lake Michigan. They may be formed north of it, and not adjacent to it. The object of the act was to secure the southern States, and not to bind those on the north to the line. But we are not compelled to resort to this rigid construction of the ordinance, which was peculiarly made, not to regulate boundaries of new and future States, but for the government of the people in the Northwestern Territory. It can be demonstrated, according to the principles of our constitution and the laws of the country, that the ordinance is nothing more than a mere act of Congress. Its assuming to itself the high-sounding titles of "ordinance," and "compact," does not make it so. It is not contended that the Congress that passed this act in question possessed any more power or authority under the constitution of the United States than the present or any other Congress possess. Each Congress that existed under the same constitution of our Government must possess the same power, and no more. Could the present Congress make a compact between any people in this Government? It is useless to inform this House what a contract or compact is. There must be competent parties, in the first place. Who were the parties in this "compact" mentioned in the ordinance? Congress were the only party concerned in the whole transaction. It is clearly not a compact, as there were no parties to it. The people in the new Territory were not present, represented in the Congress that enacted this organic law of the Northwestern Territory. In fact, they were not a Territory until the law was enacted constituting them a Territory; and, of course, could not be represented, as a Territory, in the Congress that created them.

The Congress of the United States have no power to make constitutions for any people. They may make organic laws for the Territories of the United States, and no more. These laws are always in the control and power of Congress, to alter and change at pleasure; which they have done on various occasions. They are completely within the constitutional competency of Congress, to change and alter whenever the public good requires it. Congress have so considered the subject since this act or ordinance had existence. They admitted the State of Ohio into the Union with an alteration of the ordinance act. The same has been done with Indiana and Illinois. It has been the uniform course of legislation, when it became necessary, since the ordinance was enacted in 1787; and he hoped it would be continued necessary in the case now before the committee. It was doing a mere act of justice to the State of Illinois to define the limits of the Territory adjoining her border on the north, so that there would be no dispute hereafter. The proposed amendment did not interfere with the boundary of Illinois, but defined the southern boundary of our neighbor, and he hoped it would be adopted.

Mr. DICKSON raised a question of order upon the amendment, as being inconsistent with the bill, and argued it for some time; when

The CHAIR decided that the amendment was in order.

Mr. LYON opposed the amendment, as trenching on the rights of Michigan Territory.

Mr. REYNOLDS replied, and enforced the view he had before expressed.

Mr. HARDIN warmly advocated the amendment.

Mr. GAMBLE, of Georgia, and Mr. BOON, of Indiana, opposed it, as being needless, and only opening a question which was settled.

Mr. EWING, Mr. CRANE, and Mr. MAY, successively advocated the amendment, insisting that the legislation of Congress had established the northern boundary of Illinois, and that the present bill ought to acknowledge and respect its decision, as not to be disturbed or called in question; but the bill, as reported, would still leave that question open to dispute.

Mr. J. Q. ADAMS rose and said, he did not rise to make an argument; but, before the question on this amendment was taken, he would call the attention of the House to the relative position of the two parties interested in this subject. On the one side (said Mr. A.) there are twenty-nine members of this House personally and deeply interested; every one of them having the power of speech, as they have fully shown, and every one having a vote on this question. On the other side there is one Territory, with a single delegate, (to whose zeal, energy, and fidelity, on all occasions when the rights and interests of that Territory are affected, I can bear cordial testimony;) and another Territory that is to come, without voice or vote at all. I wish that this House, before a decision is pronounced, would take this relative position of the parties into their most serious consideration; and I make the request with the more emphasis, because there is a question deeper than that of twenty-nine members against a single delegate involved in the issue of this matter; and that is, the faith of the nation. On the one side, then, there are twenty-nine members of the House, and on the other a single delegate and the faith of the nation.

Sir, the origin of this question goes back to the ordinance for the government of the Territory of the United States northwest of the river Ohio; that ordinance which is the foundation of all these States; of these three States which have their twenty-nine members in this House, and of these two Territories which may, and I hope will, have more than twenty-nine members to represent them upon this same floor. At this time I cannot go into

the subject in all its details; the debate has been protracted; the House is impatient for the question, and all I wish, before it shall be definitively taken, is that the House may understand all that is involved in it. I refer, therefore, solely to that which contains the essence of this question; that is to say, the fifth article of the fundamental articles, which were established by the Congress which framed the ordinance for the government of the Territory northwest of the river Ohio, and which is in the following words:

"*It is hereby ordained and declared by the authority aforesaid*, That the following articles shall be considered as articles of compact between the original States and the people and States in the said Territory, and for ever remain unalterable, unless by common consent."

Here, continued Mr. A., is the constitution of the Northwestern Territory; a compact made between the original thirteen States of this Union and the people and the States which were to be formed in consequence of this ordinance. Well, sir, one of these articles is as follows. It is rather long, but I am afraid I shall be obliged to read it, in order to put every member of this House in possession of the real question which is to be decided, and to show that in that question the faith of this nation is involved:

"Article 5. There shall be formed in the said Territory not less than three nor more than five States; and the boundary of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western State in the said Territory shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Port St. Vincent's due north to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash, from Port St. Vincent's to the Ohio; by the Ohio, by a direct line, drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line. *Provided, however, and it is further understood and declared*, That the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said Territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan."

Mr. A. continued. These are the terms of the compact—a compact as binding as any that was ever ratified by God in heaven.

The further provision is for the admission of these States into the Union at the proper time. I pass that over, because it has no reference to the question now at issue before the House. I pass over, also, the laws which have been enacted by Congress from that time to the present; and the question whether Congress has, by its subsequent acts, violated this provision. I appeal to it now, in order to say that it cannot be annulled; that it is firm as the world, immutable as eternal justice; and I call upon every member of this House to defend it with his voice and his vote, and to sustain the plighted faith of this nation—of the thirteen original States by which the compact was made.

In the year 1805, the Territory of Michigan was formed by law, and the southern line of the Territory is identical with these words of the provision: "an east and west line drawn through the southerly bend or extreme of Lake Michigan." And what do these twenty-nine members ask Congress to do? They call upon you to repeal this provision; to declare that it is not binding; to say that this shall not be the line, and to establish a different one. And why? Because it suits their convenience, and the convenience of their States, that the line should be altered. As regards the State of Ohio, she tells you that an alteration has been made in the constitution, and that Congress had assented to it once; but she asks you again to signify your assent, because she does not think that it has been done with sufficient certainty, and she is desirous of having additional security by eliciting another expression of your concurrence. This was the original question which was reported on by the committee of this House, and the question was raised simply between Ohio, with her nineteen members, and this unfortunate Territory of Michigan, with her solitary delegate, and the future State with no delegate at all.

But when the bill was to be carried through another place, then the idea was conjured up that it would affect the States of Indiana and Illinois. For what reason was this idea suggested? I know of none, unless it was to get votes in the other branch of the Legislature. It did get votes, and the bill from the Senate came with two additional sections added to it at its last stage in the Senate, and purporting to fix the boundaries of the States of Indiana and of Illinois, as well as the northern boundary of the State of Ohio. In that state the bill was referred to a select committee of this House, and it was the pleasure of the Speaker, in the exercise of his regular authority, to place me upon that committee, an assignment altogether unexpected to me, but which made it my duty, however painful might be its execution, to examine the question minutely, critically, in all its bearings, and not as a mere question of convenience as to what should be the boundary line of Ohio, Indiana, or Illinois—to suit whose convenience I would do every thing but sacrifice justice—every thing but compromise the rights, the interests, and the honor, of other parts of this Union. Sir, I did examine it; and I now ask the members of this House to look fairly into the question, and they will find the real question to be that which I have stated. It is true that the boundary of Indiana and Illinois has been formed by Congress, without knowing, as I believe, what they were doing, or what principles were involved; and if this question does not come to the arbitrament of the sword, as has been intimated by the member from Illinois,* who says that the people of Illinois will not suffer their boundary line to be touched—all I ask, and all that the people of the two Territories ask, is, that you will not touch the line at all—that Congress will no more commit itself. There is no necessity for it. If they have committed an error in establishing a new boundary, drawn from a Territory which has no one to represent its interests, let them be satisfied with the evil they have done, and not repeat it now, when they know what is involved in the question.

The question, as between the Territory of Ouisconsin (if such is to be established) and the States of Indiana and Illinois, is a question of possibility, which may come up at a future time. The true question now is between Michigan and Ohio; and Ohio asks you to destroy this compact, which has been declared to be unalterable, in order to have your decision that she is entitled to another boundary.

I will say no more; my sole object was to call the attention of that portion of the House which is not interested personally in the decision to the true nature of

*Mr. May, the member alluded to by Mr. A., was understood by the reporter to make use of this expression. He subsequently, however, stated to the House that Mr. A. had misunderstood him, and that he intended simply to observe, and believed he did so observe, that the State of Illinois would not sit quietly down and see its territory taken away, or words to that effect.

the question which they have to determine. I will state, furthermore, that there is a document (No. 354, 4th vol. of the proceedings of the last session of Congress) in which may be found the whole subject before the House, together with the arguments, ably made, by the gentleman from Ohio on the one side, and the delegate of Michigan Territory on the other. There will also be found the remonstrance of the Governor of Michigan, claiming this right, and showing the title of that Territory in a manner so convincing, that, if members will read it, and the other documents to which I have referred, intently, and with a single view to the question which they have to decide, as to the rights of the respective parties, and whether the public faith is or is not inviolably pledged, I believe all further debate will be unnecessary.

Mr. HAMER rose and said that he would move that the committee rise, in accordance with the suggestions of several gentlemen around him, were it not for some remarks of the gentleman from Massachusetts, [Mr. ADAMS.] He thought it his duty to reply to them before the committee rose, lest they should make an impression which they did not deserve.

He said it was a little remarkable that such arguments should come from such a quarter. We are told that there are three States involved in this controversy on one side, having twenty-nine members on this floor, and on the other side a Territory, or two Territories, having but one voice, and no vote. The same argument leaks out again, in the course of his observations. Ohio is large and powerful, and Michigan small and feeble! What had this to do with the merits of the question before us? Did we decide controversies here with reference to the age, wealth, or power, of the parties? Or did we look to the justice of the claim set up on one side, and denied on the other? Sir, (said Mr. H.,) let me meet this argument at once, and disclose its utter want of foundation, so far as Ohio is concerned. Gentlemen have only to look into this subject, to perceive, that of nine new States admitted into the Union west of the Allegany mountains, seven are larger than Ohio, and one less. Indiana is the only State of less dimensions than ours. If we have a population of a million, (eleven hundred thousand souls,) is that any reason why justice should not be done to us? If we are making canals, railroads, and turnpikes, through our country, in every direction, is that a reason why we should not be heard? If we are turning our little State into a garden, does that justify any one in disregarding our complaints? We work for what we have in Ohio, and are therefore justly entitled to it. We do not, as they do in some parts of the world, set one man to labor and two to watch him. If this course results in unexampled prosperity, it is no fault of ours. And if we have twenty-nine members on this floor from the three States named, we have precisely what the constitution of our country allows us to have.

The gentleman referred to the old argument derived from the ordinance of 1787. He told us that it was as unalterable as the laws of nature—that was the idea, though not the words of the gentleman. Now, sir, I pledge myself, when this subject comes fairly before us for discussion, and I join the honorable member in the wish that it may so come, to show that this ordinance, so far as the boundary in question is involved, is just as susceptible of alteration as any other law of Congress passed for the last thirty or forty years.

The States who ceded the Northwestern Territory to the United States all did so without condition or reserve, except Virginia. She imposed conditions. But what had they to do with these lines? Nothing. She never pretended to claim the soil or jurisdiction where these disputed boundaries are. Connecticut and Massachusetts laid claim to the country; but, as my friend from Kentucky [Mr. HARDIN] remarked, Virginia could make no stipulations to prevent Congress from running north of the line named in the ordinance, into a country which she never claimed.

This doctrine of the sacred and unalterable nature of the line fixed by the ordinance reminds me of an anecdote. I have been told that the celebrated "compromise bill" referred to in the discussion to-day, and which was the work of a few leading politicians, is considered so sacred and inviolable as to require an amendment of the constitution to enable us to dispose of the surplus moneys which it will bring into the treasury, and that such an amendment has been actually proposed. Now, sir, can Congress pass a law that cannot be repealed? Can one Congress by a law bind their successors and the country through all time to come? Yet such is the doctrine advanced in opposition to our claim. The ordinance is an act of Congress. It is no compact, as to the country north of the line named, whatever it may be as to the rest. A compact requires two parties to its execution. Here there was but one, the Congress of the United States. Virginia had no claim; the other States gave up theirs without reserve, and there was no assent or dissent of the people residing in the Territory.

He could but admire what he might be permitted to call the ingenuity of the gentleman from Massachusetts. He had remarked that Congress had no power to change the line prescribed in the ordinance, and that it was wholly unimportant what their subsequent legislation had been upon the subject. Yet he carefully passes over the laws which conflict with this line, and brings out those only which accord with it. Thus, sir, he passes by the laws of 1816 and 1818, admitting Indiana and Illinois into the Union, and fixing their boundaries north of this line; but presents the law of 1805, erecting Michigan into a Territory, to show that Congress had regarded the line as fixed, by their adoption of it upon that occasion. Why not bring out all, on both sides? That is the way to investigate the subject fairly and correctly. Let us hear all, and then determine. It has been intimated that the boundaries of Illinois and Indiana are settled, and that they are attached to the claim of Ohio to gain strength; and that the subject is pressed now, to take the advantage of the condition of Michigan, and induce her to yield to our pretensions. We have been trying for thirty years to get this question settled. For ten or fifteen years the Legislature of Ohio has been memorializing Congress upon the subject, and can get nothing done. How unjust is the intimation, then, with regard to our motives in making the application at this time! As to the States of Indiana and Illinois having any more certainty or security for their boundary than Ohio, I can see no ground for the suggestion. The gentleman from Massachusetts, and the gentleman from Michigan, have both declared that Congress had no power to go north of the ordinance line. The acts of Congress, fixing the northern limits of the States, are therefore void, and Michigan and Wisconsin will disregard them. They have the same claim as to all three of the States; and if you admit one into the Union, and erect the other into a Territory, claiming this line as their southern boundary, how are we to escape a long controversy in courts or elsewhere? It will be impossible. These are not questions for a court. They are legislative—they are political questions. Congress is the proper tribunal to settle all questions that involve the distribution of political power among Territories, and the distribution of the public domain. We do not threaten to nullify; but we do say, boldly, that we consider this question closed. Our boundaries are fixed and permanent, as described in our constitutions. We are not here, asking you to give us any thing. We only request a relinquishment of your

claim, a quit-claim deed, that the dispute may be terminated. If two men own plantations adjoining each other, and one of them claims forty rood over the true boundary line between them; this does not destroy the other one's title. It may affect the value of his land; it may prevent him from making improvements; it may be an injury to him; and he might be very anxious to have a relinquishment of the claim. But, when he gets a quit-claim from his neighbor, his title is really no better than it was before. This is exactly the situation of our three States; and the pretensions set up against our rights now, upon this floor, show the importance of having the question finally settled. We ask Congress to recognise our title; not because we think it defective, but because others say it is so.

The gentleman read a part of the ordinance of 1787, which deserves his consideration, and that of every other gentleman who wishes to fully understand this matter. One stipulation read by him was, that the ordinance might be altered by "common consent of the people northwest of the Ohio, and the other States of the Union." Now, what is the meaning of those words "common consent?" No one understands the force of language better than the honorable gentleman himself. Will he, or will any one, contend that the phrase means that the consent of every individual northwest of the Ohio must be obtained? Surely no one will contend for such an absurdity. It means, simply, the consent of a majority. Well, we have that. Here are the three States, comprehending an overwhelming majority of the people of that country included in the compact, consenting on one side. On the other side is Congress, representing the remaining States and the Territory of Michigan, (for they appeal to Congress for protection,) giving their consent to an alteration of the boundary. How can any individual object to the repeal, when the very case provided for has occurred? You alter the ordinance, as it declares you may alter it. Sir, this disposes of the whole controversy. For, if it be agreed on all hands that the compact can be altered by common consent; that there are but two parties to it; and that one party is here asking an alteration; then it only remains for the other (Congress) to give their consent, in order to have it done. It is no longer a question about unalterable lines and compacts, but a question of consent, on the part of this House, to what is just and proper in itself, and consistent with our former legislation.

Mr. BINNEY said that he felt reluctant to detain the committee, at so late an hour, with any remarks of his upon the question of boundary, on which the debate had for some time turned; but he regarded that question as one of the very first moment, not only to the States immediately concerned, but to the Union; and he therefore thought that a few minutes more might be profitably given to it. As a member of the committee to whom had been referred the bill from the Senate establishing the boundary line of Ohio, Indiana, and Illinois, it had been his duty to examine this question, and he had examined it not only with all the attention that was due to a question of such a nature, and with such consequences depending upon it, but with the benefit of able and elaborate arguments, both oral and written, by the Delegate from Michigan, [Mr. LYON,] and by one of the Representatives from Ohio, [Mr. VINTON,] and although he had gone into the examination without the slightest perceptible bias towards either conclusion, he felt it his duty to say that his inquiries had resulted in a firm conviction that the ordinance of 1787 did not offer any impediment whatever to the establishment of the northern boundary line of Ohio as the bill from the Senate had established it, and as the people of that State in their constitution had declared that, in a certain contingency, it should, with the assent of Congress, be established; namely, by a direct line running from the southern extremity of Lake Michigan to the most northerly cape of Maumee bay. This opinion, deliberately formed after patient and impartial inquiry, he was prepared to defend whenever the question of that boundary should be directly presented, though always, he hoped, with becoming respect for the opinions of those who might differ from him. He had no conceivable interest in the decision of the question one way or the other, except that which he had in common with every citizen in the country, all of whom must be interested in its being settled by the application of the just authority of Congress, and in such a way as to secure the peace and prosperity of the States immediately concerned.

The amendment proposed by the gentleman from Illinois, though it involved most of the principles, did not (Mr. B. said) bring up the whole question of the northern boundary of Ohio, and therefore he would not particularly enter into it at the present time; but he deemed it proper, for the purpose of avoiding misapprehension, now to say that he did not mean to discuss it upon the hypothesis of the gentleman from Ohio, [Mr. HAMER,] that the ordinance of 1787 was an ordinary act of legislation, as susceptible of alteration as any other act of Congress. He must say that the present inclination of his mind was to regard it otherwise; and, at all events, it was his intention to give to those who denied the authority of Congress to comprehend within the limits of Ohio any territory north of an east and west line drawn through the southerly extremity of Lake Michigan, the benefit of the concession that the ordinance of 1787 was a compact, and an obligatory compact, restricting the power of Congress to the whole extent of its fair meaning. The question, nevertheless, arose, and must be decided by the ordinary rules of interpretation, what was that meaning, And what was the authority of Congress according to it? and, until that meaning should be shown to restrain Congress from passing the bill which had come from the Senate, it seemed to him to be a little premature to talk of the public faith, or of sustaining the pledged faith of the nation. If Congress had the power, by the ordinance of 1787, to include within the States of Ohio, Indiana, and Illinois, respectively, any portion of the territory north of the east and west line referred to, then the case of public faith, or of pledged faith, did not arise; and to put forward the objection of public faith, without a previous interpretation of the ordinance, was, therefore, to beg the question altogether.

For himself, (Mr. B. said,) he did not regard the east and west line referred to in the ordinance as being, by any rule of construction whatever, a necessary boundary line between the lower States on the Ohio river, and the one or two States which Congress had authority to form in the northern part of what was called the Northwestern Territory. It was not called a boundary line in any part of the fifth article. It wanted the usual and almost necessary characters of a boundary, since it had neither beginning nor ending, but was a mere parallel of latitude. It had never been regarded as a boundary line in a single act of Congress, not even in the act erecting the Territory of Michigan: for here also there was a misapprehension, which it was easy to correct. It was only partially a boundary in regard to that Territory; whereas, if the ordinance made the line a necessary boundary, it should have been wholly so, even to the exclusion from Ohio of parts of three of her counties on Lake Erie, which confessedly were north of that east and west line, and which, nevertheless, the Territory of Michigan had no pretensions whatever to include within her boundaries. If it was a necessary boundary line, the ordinance was an act of the most extraordinary legislation that the history of Congress presented; for, whatever might be the motives to the contrary, and there were

no conceivable motives that were not opposed to it, it confined the States of Indiana and Illinois to the very edge of Lake Michigan, denying to both of them authority to build a pier into it, for the accommodation of their own shores, and the right of executing process upon any one who could step into its waters. The history of the ordinance was opposed to such a construction; and, to adopt it, would be to hold that the imperfect knowledge of the country, the very ground on which Congress recommended Virginia so to revise her cession, as to empower them to divide the territory as the situation of the country and future circumstances might require, was utterly disregarded in the ordinance, and all future knowledge made unavailing, by the establishment of an impassable boundary, the worst, too, that could in any event be adopted.

The east and west line referred to was not, in his judgment, prescribed as a boundary line at all, between the contingent State or States in the north, and three States below; nor was it introduced even as a limitation of the power of Congress, for the sake of persons above, for there were none then to be considered; nor of States above, for they were contingent, and barely possible; but it was a limitation, introduced, as he conceived, for the protection of the States below, and to prevent, under any circumstances, a further diminution of the territory originally allotted to them. The ordinance intended to give Congress the discretionary power of forming one or two States in any part of the territory north of that line, and to restrain them from abridging the territory of the three States established by the ordinance, by coming to any extent whatever south of it. The northern territory, down to that line, was wholly open to the power of Congress to erect one or two States in any part of it; and so much of the southern territory as came up to the same limit was wholly withdrawn from their power. Congress might, consequently, at their discretion, refrain from coming down to the line in the formation of a new State or States, while under no circumstances could they pass it. It was a limit to the exercise of discretion or power by Congress in that part of the territory where discretion was given; but not a necessary bounding to the States north or south. All this would be made more apparent, upon a full examination of the ordinance; and it was the construction that had been carried out into every act of Congress, from that day to the present.

The amendment proposed by the gentleman from Illinois was, in his opinion, not only proper, but indispensable. The bill establishing the Territory of Wisconsin was so drawn, by accident or design, as to leave the northern boundary of Illinois open to contest by that Territory, and to expose Indiana also to future contest for her northern boundary with Michigan, when she should become a State, notwithstanding acts of Congress had fixed those boundaries in a manner the most precise and certain. The northern boundary of Illinois, by the act of 18th April, 1818, was the parallel of forty-two degrees thirty minutes north, from the middle of Lake Michigan west to the Mississippi river. The northern boundary of Indiana was, by the act of 19th April, 1816, an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan. The bill in committee was so drawn as to say nothing of the precise latitude of the one, or the distance in miles of the other, from the southern extreme of Lake Michigan. It spoke of the southern limits of Wisconsin in precisely that way which would give to her inhabitants a pretext for raising the question whether the east and west line of the ordinance, or the line in the act of Congress, was thet rue boundary, and thus of embroiling the State of Illinois in a civil war for the maintenance of territory and jurisdiction. No one could suppose that the State of Illinois would surrender to Wisconsin a most valuable part of her territory and population, placed under the control of her laws by the act which admitted her into the Union. If gentlemen argued that Congress had no right to extend that State so far north, being restrained by the ordinance, the answer was, that Congress had full power to give to the Territory of Wisconsin what boundaries they thought fit, and that it was against the plainest suggestions of wisdom to give it a boundary which should lead to a conflict with a State whose boundaries had been previously fixed by Congress. The gentleman from Georgia [Mr. GAMBLE] had no doubt that Congress had fixed the boundaries of Illinois lawfully, and according to her authority under the ordinance, and therefore was of opinion that there was no necessity for the proposed amendment. If every body thought with him, his conclusion might be a safe one; but other gentlemen thought otherwise, and therefore it was not safe. Congress ought, to the extent of her power, to stop these contests, which were beginning to disturb the peace and security of that section of the Union. They had, in this instance, the undoubted power, and should exercise it. They had it, in his opinion, in relation to Ohio and Michigan also, and for the same reason ought to exercise it. If they deemed it expedient that Ohio should have the boundary established by the bill from the Senate, they ought to establish it, even if they doubted their power under the ordinance; for if they should transcend their power, the judicial authority of the Union would be competent to redress the injury to Michigan when she should be admitted into the Union. The question would be then a purely judicial question. But if Congress refused to establish it, under an erroneous doubt of their power, Ohio might inevitably lose the territory, though the arguments of her Representative were right, and Michigan gain it, though her's were all wrong. The difference in the number of Representatives on this floor, by whom the interests of the contending parties were guarded, ought in no way to affect the question. The House would judge for all, and should preserve the peace of all, to the extent of its power. It should do this, notwithstanding the warmest obtestations to the House to sustain the pledged faith of the nation. When it should be established that the faith of the nation restrained the action of Congress, he would be the last man in the House to disregard the restraint. He, however, held himself ready, whenever the occasion should present, to give his reasons for the opinion he held, that the faith of the nation in no way whatever prevented Congress from doing what the bill from the Senate proposed to do for the establishing of the boundary of Ohio.

Mr. MASON concurred in the view taken by Mr. ADAMS; remarked on the importance of the question, and opposed the amendment, as going to pronounce sentence prematurely on a matter which ought at present to be left open.

Mr. ALLEN, of Ohio, replied, with warmth, to the remarks of Mr. ADAMS; and, after intimating that the assent by Virginia to the federal constitution, subsequent to the compact of '87, had virtually changed the obligations of that instrument, concluded, as the question could not then be fully argued, by moving that the committee rise; but withdrew his motion to allow some brief explanations by Messrs. HAMER and ADAMS.

On motion of Mr. MAY, the committee rose, and reported the bills to the House, with the exception of the bill establishing the Territory of Wisconsin.

The House then adjourned.

TUESDAY, FEBRUARY 10.

ELECTION OF PRINTER TO THE HOUSE.

The following resolution, offered yesterday by Mr.

McKinley, as amended by Mr. Sutherland, then came up as the unfinished morning business:

"*Resolved*, That the House will, on Thursday next, proceed to the election of printer to the House of Representatives of the next Congress, by *viva voce*."

Mr. EVANS moved the following amendment: Strike out *viva voce*, and insert "under the authority of the joint resolution approved March 3, 1819."

The amendment having been read,

Mr. EVANS said it seemed obvious to him that, if the resolution proposed by the gentleman from Alabama ought to pass at all, it should pass in the shape Mr. E. proposed. If not, he would inquire of the honorable mover, by and under what authority the House could undertake to go into the election of printer at all for the next Congress? There was none except that derived from the resolution of 1819, as amended by the joint resolution of the 5th February, 1829. Now, the very introduction of the resolution by the honorable member from Alabama recognised the force of those resolutions. It was by virtue of those two joint resolutions alone that one Congress had the right to appoint a printer for the succeeding one; and the phraseology proposed by Mr. E. was the only phraseology that could consistently be used. He begged leave, also, to remind the House that such was the phraseology adopted ever since the former joint resolution was adopted. The motion had always been made and agreed to, that on such a day the House would proceed to the election of a printer under the authority of the joint resolution of the 3d March, 1819; and, to entitle the House to do so on the present occasion, the same phraseology must be made use of.

Gentlemen had said on a former occasion, when this subject came up incidentally for consideration, that the resolution of 1819 was temporary in its nature, and limited to two years. As an answer to that, he could only say that it was never considered so, neither by the then nor by the succeeding Congresses, each of whom regarded it as binding upon themselves and upon the succeeding Congress. Even so lately as 1829, the journals of the House show this; wherein it was stated that the House proceeded to the election of printer in obedience to the joint resolution of 1819, and this was the phraseology for several years after the adoption of that resolution. Then, if that resolution be in force, and had not been repealed, we derived the only authority we had to choose a printer for the next session from these two resolutions.

Then, as to the mode of election, what was the language of the resolution? That the appointment of printer should be made by ballot. Now, the gentleman's resolution proposed to dispense with that provision; but Mr. E. thought one portion of the resolution was as obligatory as another; and that, as the authority under which the appointment was made was derived from the resolution alone, the mode must be in the manner therein laid down, and could not be set aside. It had been alleged that the resolution of 1819 was virtually repealed or rescinded by that of 1829; but how could that be? The latter repealed only so much of the former as was inconsistent with it; and what was that? Why, it limited the time to within thirty days of the termination of the session, and required a majority instead of a plurality of votes. These were the only alterations, and, in all other particulars, the resolution of 1819 stood unrepealed. The nature of the contract, the prices to be paid, and the mode of appointment, were unaffected.

The next question that came up for consideration was, whether the printer was an officer of the House or not. Mr. E. would not go into this at any length; but it was enough for the justification of his own vote to say that he did not consider the printer an officer, within the meaning of that clause in the constitution giving each House the right to appoint its officers, no more than the person who supplied the House with stationary, or fuel, or furniture. In Mr. E's judgment it stood upon the same principle. Still, he thought, with the gentleman from Virginia, [Mr. Robertson,] that there was much propriety in leaving to each House to select its own printer, if it was practicable. But this could not be done; for we had the lesson of experience to show its impracticability. In the report made to the House on the 3d of March, 1819, the inconvenience of that mode was closely and ably examined, and it was shown, by the experience of former years, that the work was badly executed, and often delayed so long beyond the proper time as to be useless when completed. Mr. E. read an extract from the report in question, and showed that it would be impossible to be furnished with the requisite materials, types, presses, &c., unless he was enabled to provide for them beforehand, by having been elected the printer to the ensuing Congress. He also adduced one fact to show the inconvenience of the mode proposed by Mr. Robertson—that a document, providing for the organization of the War Department, had been delayed upwards of a year in the printing office, till the army itself became almost in a state of disorganization. He would have had no objection that the subject should have been committed to a select committee, as proposed some time since by a gentleman from Tennessee, [Mr. Peyton;] and if any better mode than the present or the former one could be devised, Mr. E. would cheerfully support it. But let it be examined by competent persons, conversant with printing and public business. He thought they would be incurring great hazard by repealing the joint resolution, or altering the present mode in any way, at this late hour. At present, he believed the existing mode the best; at all events, he was not assured that a better could be devised. There were no complaints made. The prices were sufficiently low, and the work was promptly executed. At the second session of the nineteenth Congress, a printer, who had formerly had the contract, sent a memorial to the House, offering to do the work for fifteen per cent. under the existing tariff of prices; but Congress was satisfied, and refused to disturb the resolution fixing them. These, then, were the reasons why he thought the resolution should be amended as he had proposed.

In relation to the question of *viva voce* voting, Mr. E. was decidedly opposed to it in this case, because he thought they had no right to adopt it, and because he was opposed to it in every election for officers of that House, and on most other occasions. He knew it was a contested question, and he had intended to have submitted some remarks on the subject when the resolution of the gentleman from Illinois [Mr. Reynolds] was under consideration. He should now make but a few remarks on the subject. It had been advocated there on the ground of the responsibility of members to their constituents, who, it was contended, ought to know the opinions and sentiments of their Representatives; but, he would ask, how were a man's opinions and sentiments to be known by his vote for officers of that House? Had not the people opportunities enough, and better opportunities, of knowing the sentiments of their Representatives? In his judgment, they were to be best judged by the public policy they advocated and pursued, and not by such votes as those. Of what possible consequence could it be to the people of this country to know how their Representatives voted for A, B, or C, as an officer of the House? Besides, Mr. E. was opposed to it, as breaking down the independence of private judgment,

and the right of opinion in individual members of the House, and making them, or tending to make them, subservient elsewhere. He was much struck with a remark made by a gentleman from Georgia, who said he thought the ballot very proper for the people, because they were accountable to no one. Mr. E. would undertake to say that the principle of the ballot was never established on that ground. It always stood on the ground of personal independence; and such a reason as that assigned by the gentleman, he ventured to say, never entered into the head of any legislator. Every reason, every argument, went to show that it was established to secure the right of private judgment and independence. As to responsibility to constituents, Mr. E. admitted it as fully as any one, and respected their wishes and public opinion as much as any one; but there was a very great difference as to what constituted public opinion. It should be a calm, intelligent, deliberate judgment; not opinions got up and forced into circulation by the intrigues of designing persons. A gentleman from New York used a great many phrases about the duties of the Representative; that he was nothing more than the minion of the people, and talked about the creature and the creator; the principal and the agent. Why none of these phrases—

Mr. CROCKETT here called for the orders of the day.

Mr. McKINLEY asked for the yeas and nays; but they were not ordered.

The call for the orders of the day prevailed: Ayes 121.

Mr. LOVE, agreeably to previous notice, moved that all the orders of the day be postponed in order to take up for consideration the "bill to establish the Northwestern Territory."

Mr. POLK reminded the House that he had given notice of his intention this day to call up the bill regulating the public deposites in the local banks, and the bill relating to the United States Bank.

Mr. LOVE said the subjects referred to by the gentleman from Tennessee had occupied the House four or five months at the last session, and was of less interest to the nation than the bill to establish the Northwestern Territory, which he now proposed to call up. Unless that bill could be considered now, it would be useless to take it up at all at the present session.

Mr. DUNLAP hoped, he said, that the House would not agree to the motion of the gentleman from Tennessee. A bill of great interest to his constituents was made the order of the day for the 17th December, and had not yet been taken up.

Mr. POLK hoped, he said, that the House would not longer delay to act on the bills which he had proposed to take up this day. One of those bills provided for the transfer of the loan office books from the Bank of the United States to the Government. The evidences of the payments made were in the bank, and it was the object of the bill to remove them to the public archives, and with them the small balance not yet called for. The passage of this bill was indispensable; and equally indispensable was the passage of the bill regulating the deposite of the public money in the local banks. These bills were of great national interest, and he thought they could be disposed of without much debate. He appealed to gentlemen to take up and dispose of these bills, in which the whole country was concerned, promising his aid, afterwards, in the transaction of the local business in which gentlemen were interested.

The question being taken, the motion of Mr. LOVE was rejected.

Mr. POLK then moved to postpone all the orders preceding bills No. 563, 564, 565, and 625, in order to take up those bills.

Mr. MERCER suggested that the table was loaded with bills, and that there was always more time lost in struggling for the precedence of bills, at the close of a session, than would suffice for the transaction of the business in its regular order.

Mr. JONES, of Georgia, asked whether the navy bill was not the next bill in regular order.

The SPEAKER stated that, after the business on the Speaker's table, in which were included bills and communications from the Departments, the bill first in order would be the bill regulating the pay of the navy.

Mr. JONES expressed a wish that the navy bill might be acted on.

Mr. McKIM asked the yeas and nays on the motion to postpone the orders, and they were ordered.

The question being then taken on the motion, it was decided in the affirmative: Yeas 107, nays 95.

DEPOSITE BANKS.

On motion of Mr. POLK, the House then proceeded to the consideration of the bill regulating the deposites of the United States in certain local banks.

The bill having been read,

Mr. POLK addressed the House in explanation of its provisions, and in favor of its passage. The bill which has been read, said Mr. P., is substantially that which passed the House at the last session of Congress, but failed in the Senate. Upon a careful review of the provisions of the bill of the last year, the committee found but few points, in their judgment, requiring change or amendment. These will be presently stated.

After the full discussions of the last year, the subject to which the bill relates, and the objects proposed to be attained by it, must be familiar to every gentleman, and it will only be necessary on this occasion to present a few prominent facts, with the conclusions to which they necessarily give rise, to satisfy not only the House but the country, that the present financial system is no longer to be regarded as an experiment. Through the agency of State banks, the fiscal operations of Government have, during the past year, been eminently successful. The collection of the public revenue, and the transfer of funds to distant points for disbursement, have been made by the deposite banks—promptly, efficiently, and without charge to the public. Nothing has been lost to the Treasury, and no part of the public service has suffered inconvenience by the employment of these agents. All this has been done, not only without the aid of the national bank, but against its power, and in defiance of its efforts to cripple their operations, to distress the community, and embarrass the Treasury. Connected with this, the state of the general currency is found to be in as sound a state as at any former period. The fiscal operations of the Government had been conducted, during the past year, as they had been previous to the existence of the present Bank of the United States, by means of arrangements made with the local banks, in pursuance of the discretionary power created by the laws in the executive department. It was deemed proper, however, for Congress to limit and define this discretion as far as by law it could be done, as well as to provide additional guards and securities for the public money; and for that purpose the bill of the last session, as well as that now under consideration, had been brought forward. In the brief view which I propose to take, I shall not deem it either necessary or profitable to re-examine the grave questions which engaged our deliberations at the last session of Congress. These have been settled, not only by this House, but by public opinion.

I proceed at once to consider the objections often made, and much relied on, against the employment of State banks as public depositories and fiscal agents. They are—

1st. That they are unsafe depositories of the public money; and

2dly. That they are incompetent Treasury agents.

In relation to their safety, a prevailing error of fact has run through all the discussions, in and out of Congress. It has been erroneously assumed that, whilst no national bank existed, in the interval which elapsed between the expiration of the old and the creation of the new bank charter, the Government had sustained heavy losses by the failure of State banks, holding the public deposites. The derangement in the currency during the years 1814, 1815, and 1816, and the embarrassments which the Treasury and the country suffered during that period, have been often referred to. The unavailable fund in the treasury, created chiefly by the failure of banks, has been constantly pointed to, as a standing memorial of their unsafety. In the discussions upon this floor as late as the last session of Congress, this leading error prevailed, and upon it was based much of the argument then urged, which was intended to prove the necessity of a national bank. We were then asked, "Have we forgotten the lessons of '15, '16, '17? Are there not a million or two of 'unavailable funds' left from our last experiment upon the equal value of State bank notes? Do not the favored banks already refuse each others' paper? Is not the inequality of exchange already reappearing?" * * * "The loss sustained by broken banks alone, between 1814 and 1819, exceeds a million." I affirm that no such loss was sustained, and I call upon the advocates of the Bank of the United States, who constantly reiterate general statements like these, to produce the evidence of the fact. During the period which elapsed between the 3d of March, 1811, and the begining of 1817—during which no Bank of the United States existed, and when State banks were exclusively employed as fiscal agents and public depositories—not a dollar was lost to the Treasury by the failure of banks. The whole unavailable fund, now in the treasury, accrued after, and not before, the charter of the present Bank of the United States was granted, and after that bank was in full operation. From official documents before me, (the supplemental report of the Secretary of the Treasury,) it appears that the whole loss, by the failure of deposite banks, between 1814 and 1819, as depositories, amounts to only $5,849 06, and, including their bills in possession, to less than a hundred thousand, the whole of which occurred in 1817, after the Bank of the United States had commenced operations. And though the fact I state is verified by official documents, and is incontrovertible, we are constantly told, in round numbers, (doubtless for the want of proper examination,) that the loss sustained by the Treasury, during this period, by the failure of State banks, "exceeds a million." It may be useful, in order to disabuse the public mind on this subject, to inquire how, and where, the unavailable fund now in the treasury accrued. It amounted on the 10th of November last to $1,157,890 85. A small portion of this has since been collected, and an additional sum is in progress of collection; a portion will be wholly lost.

Amount due on 10th November, 1834, from banks of deposite, as depositories which stopped specie payment.	
In 1817,	$5,849 06
1819,	17,182 43
1821,	328,680 49
1822,	4,259 97
1823,	49,148 99
1824,	215,287 61
1825,	181,620 07
1827,	58,772 64
1828,	6,267 00
1831,	20,623 05
1834,	21,200 30
Total due as depositories,	$908,891 61
Amount due on 10th November, 1834, from banks of deposite stopping specie payment, not as depositories, but on their notes in hand.	
In 1817,	$75,197 53
1819,	19,783 58
1822,	35,104 03
1823,	7,780 49
1825,	4,159 76
1227,	25,138 00
Total due on notes of deposite banks in possession,	167,163 39
Total due as depositories,	980,891 61
Total due from deposite banks on 10th November, 1834, on all accounts,	1,076,055 00
Total due on 10th November, 1834, from all other banks not depositories of public money, but their bills in possession,	81,835 85
Total unavailable fund,	$1,157,890 85

It thus appears that, of the whole amount of unavailable funds in the treasury on the 10th of November last, that is, due from banks of deposite, as depositories, stopping specie payment prior to 1821, and occurring within the first four years after the Bank of the United States went into operation, there was $23,031 49

And subsequent to 1821, 885,860 12

$908,891 61

It also appears that of the bills of deposite banks in possession, due to Government on the 10th of November, 1834, there occurred prior to 1821, 94,981 11

And subsequent to 1821, 72,182 28

$167,163 39

That is, there was due from deposite banks which stopped payment prior to 1821—

In deposite in banks of deposite,	23,031 49
In bills of deposite banks in possession, prior to 1821,	94,981 11
Total due on all accounts from deposite banks stopping specie payment prior to 1821,	$118,012 60
There is due from deposite banks stopping specie payment subsequent to 1821, viz:	
In deposite in banks of deposite,	$885,860 12
In bills of deposite banks in possession,	72,182 28
Total due on all accounts from deposite banks stopping specie payment subsequent to 1821,	$958,042 40

The whole amount due from deposite banks which stopped payment prior to 1821, including their bills in possession, is less than one eighth of the amount which became due subsequent to that time; and, excluding their bills in possession, is less than the one thirty-eighth of the amount which became due subsequent to 1821.

The heavy losses, as appears from the statement already made, occurred in the years 1821, 1824, and 1825, and not, as has been too generally and erroneously supposed, during the first years of the United States Bank charter, or previous to the existence of that charter. During these three years, the amount of loss now constituting a part of the unavailable fund in the treasury was

$725,588 17; a sum largely over half, and nearly equal to two thirds, of the whole unavailable fund. What do these facts, derived as they are from official documents, prove?

1st. That no part of the unavailable fund now in the treasury occurred before the Bank of the United States went into operation.

2d. That the loss sustained from State banks, whether depositories or not, including the loss upon their bills in possession, was much smaller during the first years of the operation of the Bank of the United States than in subsequent years.

The Bank of the United States commenced operations on the 1st January, 1817. During that and the subsequent year most of the State banks resumed specie payments, which had been suspended during the war; and yet, during the severe trial to which this resumption subjected them, comparatively little loss was sustained by Government up to 1821. It was after the commencement of that year, and after the Bank of the United States had been in full operation for more than four years, that the heavy losses were sustained. If the Bank of the United States, as its advocates have so often repeated here, was a regulator of currency, and operated to correct excessive issues of the local banks, and to keep their currency sound, why is it that it has wholly failed to perform this great function? It is well known that during the year 1819, two years after it went into operation, the Bank of the United States itself was upon the verge of stopping payment; and nothing but the aids derived from Government, by means of the large amount of public funds in its possession, saved it. During a part of the time prior to 1821, it was struggling to save itself from the necessity of stopping specie payments. After that time, with the increased power which the Government funds afforded it, it may well be doubted whether it did not contribute more to produce the disasters which befel the State institutions which subsequently stopped payment, than to aid them in preserving a sound state of the currency.

Whilst examining the losses sustained by Government in the State banks, it may be useful to inquire also what losses have been sustained by the public from the Bank of the United States. I am aware that it has been often confidently asserted that the Government has not suffered "the loss of a single dollar" by this institution. No part of the public deposites has been lost; but in its character of a stockholder, I undertake to prove, from facts that will not be controverted, that the Government has lost more by the Bank of the United States itself than the amount of the whole unavailable fund in the treasury. Let facts speak for themselves:

The whole amount of unavailable funds in the treasury, as before stated, was, on 10th November, 1834, $1,157,891 45. The Government is the owner of seven millions of the capital stock of the bank.

The Government, until it was recently discharged, owed the bank seven millions of funded debt, which, by its charter, was permitted to be subscribed in taking up the capital stock, bearing an interest of five per cent., which was regularly paid. From the 1st January, 1819, to the 1st January, 1821, the bank declared no dividend, and of course the Government wholly lost the interest on its seven millions of stock during these two years. For a year and a half afterwards the bank declared a very small dividend, viz: on the 1st July, 1821, a dividend of 1½ per cent.; on the 1st January, 1822, a dividend of 2 per cent., and on the 1st July, 1822, a dividend of 2¼ per cent.; being less, during the three and a half years commencing 1st January, 1819, and ending 1st July, 1822, than the interest on the funded debt of the same amount of seven millions paid by the Government to the bank, by the sum of $822,500. This may be seen as follows:

Interest at 5 per cent. for three and a half years on seven million dollars funded debt, paid by the United States to the Bank of the United States, - - -	$1,225,000
Amount received by the United States, during the same period, from the Bank of the United States, in dividends, on seven million dollars capital stock owned by the United States in the bank, - -	$402,500
Loss by Government,	$822,500

But this is not the only loss sustained by Government from the Bank of the United States. By a report made to the Senate of the United States at the present session, by a committee of that body, it appears that the ascertained and estimated loss of the Bank of the United States, to July, 1834, was, - - $6,005,315 71

And from July to November, 1834, 30,809 80

Total loss of bank by desperate debts, which cannot be collected, $6,036,125 51

The Government owns one fifth of the capital stock of the bank, and must bear one fifth of the loss, which amounts to $1,207,225 10, making the total loss to the Government, as a stockholder in the bank, by bad debts created by the bank, greater than the whole loss in State banks of deposite, including the bills of all other State banks in possession since the Government was organized. To show that the losses sustained by Government from banks are not the only nor any considerable part of the aggregate of losses, suffered from other public debtors, whose debts at the time they were created were supposed to be well secured by bond, with approved security, it is only necessary to refer to the annual reports of the Comptroller of the Treasury, of unavailable balances of debt which cannot be collected. From these it appears that the debts ascertained to be due to the United States, from others than banks, (but a small portion of which will probably ever be collected,) exceeds the enormous sum of sixteen millions. From the best estimate which I have been enabled to obtain at the Treasury, the amount is $16,886,585 82. The loss sustained by Government by three mercantile houses alone, which failed during the years 1827 and 1828, owing duty bonds, which it was supposed had been well secured, exceeds $1,800,000, a sum nearly double the whole amount of the unavailable fund in the treasury. The argument, therefore, so much relied on, to prove the unsafety of State banks, derived from the fact of the existence of a large unavailable fund in the treasury, created chiefly by the failure of State banks, it will be found, applies to all credit. Losses are incident to all credit, and must be expected occasionally to occur. If it be said that an institution wielding as large a capital as that of the Bank of the United States must be expected to sustain occasional losses, the same may be said of the State banks. If it be said that Government, in the annual collection and disbursement of many millions of revenue, must necessarily suffer some loss, by the defalcation of public debtors, or the unfaithfulness of public agents, the same may be said of banks in common with all descriptions of debtors or persons, who handle or hold in possession the public money.

With a view to show the safety of the State banks now employed as the depositories of the public money, it is only necessary to compare their condition with that of the Bank of the United States, and the Bank of England, at different periods of the year 1834. From a table annexed to the supplemental report of the Secretary of the Treasury, it appears that, on the 1st of October, 1834, the deposite banks had—

Notes in circulation, - - -	$8,073,944
In specie, - - - -	5,820,023

It appears from the same table that the Bank of the United States had, on the 1st of January, 1834—

Notes in circulation, - - - $19,208,379
In specie, - - - - 10,031,237

The Bank of England had, on the 1st of January, 1834—

Notes in circulation, - - - $98,199,600
In specie, - - - - 41,779,200

From which it appears that the proportion of specie to the notes in circulation, of the deposite banks, on the 1st of October, 1834, was greater than that of the Bank of the United States, or the Bank of England, on the 1st of January preceding. If we look to the relative condition of the deposite banks, at these respective periods, with that of the Bank of the United States, as regards the immediate liabilities, and the means immediately applicable to meet them, the same result will be presented, viz:

The liabilities of deposite banks, on the 1st of October, 1834, were--

Circulation,
Public and private deposites, } $31,548,372
Debts due to other banks,

Means immediately available—

Specie,
Notes of other banks, } $14,176,142
Due by other banks,

Since which time the amount of public deposite has been considerably reduced.

The liabilities of the Bank of the United States on the 1st of January, 1834, were—

Circulation,
Public and private deposites, } $31,709,462
Debts due to other banks,

Means immediately available—

Specie,
Notes of other banks, } $15,072,747
Due by other banks,

The Bank of the United States has, since that period, reduced its circulation, and increased its specie; but this is an unusual condition for the Bank of the United States. On the 1st of March, 1832, the liabilities of the Bank of the United States, as stated in the report of the committee of the House who visited Philadelphia to examine its condition, were, viz:

Liabilities, - - - - $42,643,000
Immediate means, only - - - 9,640,000

And yet, at that time, the Bank of the United States was declared by its advocates, in debate here, to be the safest in the world. If, then, the immediate liabilities, and means immediately applicable to meet them, of the deposite banks, furnish any criterion by which to judge of their condition, they must be regarded as safe depositories.

These facts, derived as they are from official documents in the possession of the Treasury, must establish satisfactorily that the present deposite banks are in as good and even better condition than banks in good credit ordinarily are. To the objection that they are unsafe, derived from past experience, the facts I have stated are, I trust, a sufficient answer. To secure the public money in the banks which are or may be employed, the bill provides additional guarantees. It provides that weekly returns of their condition and business shall be made to the Secretary of the Treasury; that they shall keep on hand a given proportion of specie to the notes in circulation; that in case of doubt they shall submit their books and condition for inspection; and that, in case the Secretary of the Treasury shall at any time deem it necessary for the public security, he may require collateral security, in addition to the corporate liabilities of the banks, for the deposites which they hold. Thus, not only the whole capital stock of these banks, bound as it will be to the Government as a preferred creditor under our laws, must be first exhausted, but the collateral security taken must fail, before any ultimate loss can fall upon the Government. The power to discontinue or change the banks of deposite, as depositories, is unconditionally reserved to Congress. And if, in the recess of Congress, they shall so extend or conduct their business as either to violate any of the conditions upon which they receive the public money on deposite, or to become or be likely to become unsafe, they may be discontinued by the Secretary of the Treasury. It will be their interest to keep the public deposites; and, in order to do so, it will be their interest to keep in a sound condition.

The second objection to the employment of the State banks is, that they are incompetent fiscal agents. In regard to this objection, it might be enough for me to demand of those who make it the evidence upon which it rests. No facts have been adduced to establish their incompetency. On the contrary, the ability of these banks to discharge the fiscal duties required of them by the Treasury is fully established by the fact that, since they were selected as the public depositories, no inconvenience has been suffered by the public. Under the most unfavorable circumstances, embarrassed as they have been by the power of the Bank of the United States, and a panic, without an example in our history, they have, during the past year, transferred the public funds to distant points, when required for disbursement, with a facility and promptness that must have surprised those who, a year ago, so confidently predicted their utter failure.

By the exchange operations of these banks, transfers are now made without difficulty, and without charge to the public. The amount of domestic exchange purchased by the Bank of the United States within the last two years has diminished, and that of the local banks increased. In the South and Southwest this is strikingly illustrated. The amount of discounts on domestic bills of exchange by the United States Bank, at the seven Western and Southwestern offices, was, on the 1st September, 1832, $5,557,433; on the 1st September, 1834, it was reduced to $2,583,783; on the 1st September, 1834, the discounts on domestic bills, by three of the deposite banks in the West, largely exceeded those of the seven branches of the United States Bank in that section of the Union. This may be seen by the following statement, viz:

Domestic bills running to maturity on the 1st September, 1834, at the seven branches of the United States Bank:

At Pittsburg,
Cincinnati,
Lexington,
Louisville, } $2,583,783 06.
Nashville,
St. Louis,
Natchez,

If the bill business done at the branch at Natchez is deducted from this statement, the whole bill business at the remaining six branches at that period is only $467,444 20.

The discount on domestic bills of exchange running to maturity early in September, 1834, by three of the deposite banks, was as follows, viz:

At Franklin Bank, Cincinnati,
Planters' Bank, Natchez, } $3,340,544 19.
Union Bank, Nashville,

And on the 1st of January, 1835, the bill business done at these three State banks alone amounted to $6,142,419 22. The local banks in that as well as in other sections of the Union are, to a very great extent, superseding the Bank of the United States in the

business of domestic exchanges. The local banks have by their competition compelled the Bank of the United States to reduce their rates, and exchange is now afforded in many sections of the Union upon better terms than when the Bank of the United States had almost a monopoly of the business of exchange. This is shown by the official statement of the rates of exchange charged by the local banks, and the Bank of the United States, obtained from the Treasury, and at the instance of the Committee of Ways and Means ordered to be printed by the House a few days ago. From that statement it appears that whilst the Bank of the United States, at its northern and eastern branches, was in January, 1834, charging two and a half per cent. on the West and Southwest, some of the local banks were doing the same business from one to one and a half per cent.

[Mr. DENNY here asked what rate was charged by the local banks in the North and East, on Pittsburg and Cincinnati.]

Mr. P. proceeded. In answer to the inquiry of the gentleman from Pennsylvania, I have to state that it appears, from the official statement before me, that the Merchants' Bank of Boston charged, in September last, one per cent. on Pittsburg; and on Cincinnati one and a quarter per cent.; the Mechanics' Bank of New York, in December last, charged on Cincinnati one per cent.; and the Phœnix Bank of New York, which is not a bank of deposite, charged, in November last, on Ohio, from three quarters to one and a half per cent. I might read from this document the rates charged by other State banks in the East on these points; they vary but little from each other. I presume the statement made is a sufficient answer to the gentleman's interrogatory.

The State banks are not only competent to furnish all the domestic exchange required for the convenience of trade, but they furnish it at cheaper rates, in many parts of the Union, than the Bank of the United States has heretofore done the same business. These banks, too, reciprocate collections with each other. The Bank of Virginia, for example, "reciprocates the collection of bills and notes with certain banks in all the principal towns along the seaboard, from Portland to New Orleans, and thence in the towns along the Mississippi and Ohio, to Pittsburg." That bank "gives checks at par on the banks south of Richmond, and at one quarter of one per cent. premium on the banks north." The Union Bank at New Orleans has, since November last, purchased a considerable amount of domestic exchange at sixty days, at one and a quarter per cent. Possessing these facilities in the operations of exchange, it is a matter of no sort of difficulty for the deposite banks, on the shortest notice, through their exchanges, to transfer the public funds to distant parts of the Union, where they may be required for the public service. It was for the purpose of showing that this not only could, but had been done without difficulty, that their operations in exchange have been noticed. From the facts brought to the notice of the House, I am warranted in the conclusion that there is nothing in the objection that denies the competency of the State banks to discharge all the duties of fiscal agents of the Treasury. I might, was it deemed necessary, proceed to show the success with which these duties were performed by State banks from 1789 to the creation of the present Bank of the United States, during which period they were employed as fiscal agents. The House must be familiar with the history of that period, and I will not delay them longer upon this point.

I have thus briefly considered the two principal points of objection—the alleged unsafety of the State banks as public depositories, and their incompetency to perform all the duties required of them as fiscal agents of Government. As regards the first, it has been my object to show, from well-attested facts, that they are as safe as any other description of agency could be. That occasional losses, during their employment for a long period of time, may be possible, is not controverted; but should these occur, (as is not anticipated,) it should be remembered that such losses are incident to all credit, and is not likely to be greater, nor, indeed, under the many guards contained in this bill for the public security, so great as that which might reasonably be expected from the employment of any other description of agents. Wherever the relation of creditor and debtor, of principal and factor, exists, whether in private or public transactions, there must, with the closest attention, be some hazard of occasional loss. This is fully conceded by the Secretary of the Treasury, in his very able report "on the present system of keeping and disbursing the public money." In that report he states that "Governments cannot be administered without giving some credit to debtors, and to collecting, keeping, and disbursing officers. Changing the name of the debtor, or the debtor himself, from an individual to a bank or corporation, does not produce any charm on the nature of the transaction, and does not prevent it from still resting on credit, and being in some degree liable to all its dangers and disasters." * * * "It is gratifying to reflect, however, that the credit given by the Government, whether to bank paper or bank agents, has been accompanied by smaller losses, in the experience under the system of State banks in this country, at their worst periods, and under their severest calamities, than any other kind of credit the Government has ever given in relation to its pecuniary transactions."

As regards the second objection, the alleged incompetency of these banks as fiscal agents, the manner in which they have performed and are performing these duties must remove all doubts which may have existed on that point. It is no longer a question of doubt whether they can, with facility and promptness, transfer the public funds to the most distant points for disbursement, and perform all other duties which, as fiscal agents, they may be required to perform.

It has been already stated that but few changes have been made in this bill, from that of the last year. One, and perhaps the most important which has been made, is that which relates to the restriction upon the issue or use, by the deposite banks, of bills of small denomination. The bill of last year extended the restriction to bills of five dollars and under, to take effect on the 4th of March, 1836. The present bill contains the same restriction, and extends it to tens, to take effect on the 3d of March, 1838. The restrictions must of course depend for their execution upon the voluntary engagement of the banks. Congress possesses no direct power to impose such a restriction upon the State institutions; but they have the right, as they did by the joint resolution of 1816, to declare in what description of money, being convertible into coin, the public revenue may be received by the collecting officers. They have the right to declare, as this bill provides, that they will not employ any bank as a depository which shall, after a given future day, issue or use bills of less than a given denomination; and that they will not receive, in payment of revenue, the bills of any bank that shall, after that day, issue or use such bills. The deposite banks, by their voluntary contracts, must agree to those terms before their bills may be received in payment of debts due to the public. It is not doubted that the deposite banks, and all other banks, will find it to be their interest, in consideration of the increased and more extended credit given to their issues, by its receipt in payment of public dues, to conform to the restrictions of the bill in this respect.

Some apprehension has been expressed that the restriction as to tens, to take effect at so early a day as March, 1838, might be requiring of the banks too sudden a change, and might be productive of some inconvenience upon the general currency, and especially upon the amount of circulation. The committee, in preparing the bill, came to a different conclusion. The time, in their opinion, is ample, to enable all sound banks to conform to this restriction; and the provision will stand as notice to them to shape their business accordingly, if they desire either to continue the public depositories, or to have their notes received in payments to the public. But if by possibility we should in this respect be mistaken, and it shall be found, on the 3d of March, 1838, when the restriction as to tens and under is to take effect, that it will operate inconveniently and prejudicially to the public interest, Congress may at any time extend the period, or otherwise modify this provision.

Over the District of Columbia Congress have a direct control, and may prohibit absolutely the issue or use of small notes by any bank hereafter incorporated within it. The committee considered of the propriety of introducing a provision into this bill, that, after an early day, no banks within this District should be permitted to issue any note or bill of less denomination than ten or even twenty dollars. They did not do so; because, on examination they found that the charters of most of the banks in the District will not expire until the 3d of March, 1836; and that by their charters no power was reserved by Congress to impose such a restriction. Should they apply for a renewal of their charters, or any other District banks be ever chartered, it will be time enough to impose the restriction; and he hoped, if it should be deemed proper to recharter any of the present banks in the District, or to grant any new charter, that Congress would impose it.

It is estimated by the Secretary of the Treasury, upon data unquestionably approximating the truth, that the notes under five dollars now in circulation amount to between one fifth and one fourth of the whole paper circulation of the country; and that the notes of five dollars, including the branch drafts of the Bank of the United States of that denomination, amount to about one fourth of the balance, making in the whole, under tens, about one third of the whole paper circulation. This is very nearly the estimate made by Mr. Gallatin a very few years ago, and also by a committee of the Senate in 1830. The effect of the prohibitory clauses in the bill, should the deposite and other State banks voluntarily cease the issue of notes of these denominations, will strongly tend to substitute in their place a metallic currency. Since the passage of the gold and silver bills of the last year, the volume of metallic circulation has greatly increased; and it cannot be doubted that it may be still further enlarged, under proper incidental regulations, (such as the restrictions in the bill,) in regard to the collection and safe keeping of the public money, whereby a broader and safer basis of metallic currency may be secured, to sustain our paper circulation, if banks must continue to exist. I think, therefore, the provision a wise one; and the only doubt I have is, whether it ought not, at some period after 1838, to be extended to notes of even higher denomination than tens. The committee thought it prudent, however, to stop for the present at notes of ten dollars and under, leaving any further restriction open for the future legislation of Congress, should it be deemed necessary or proper.

A question may arise in regard to the payment of interest by the deposite banks, which it may be well now to notice. The House have been notified by a gentleman from Georgia [Mr. Foster] that it is his intention to move an amendment to this bill, requiring the banks employed as depositories of the public money "to pay to the United States interest on the amount of the public money which they may have to the credit of the United States at the beginning of every month, for the succeeding month." No interest has been heretofore charged upon the public deposite. From the year 1789, up to the expiration of the charter of the old Bank of the United States in 1811, during which period the public money was kept on deposite in that and numerous State banks, no interest was exacted for the use of the public deposite. From March, 1811, to the beginning of 1817, when the present Bank of the United States went into operation, during which period the State banks were the exclusive depositories, no interest was paid. Since the present Bank of the United States has existed, and held the public deposite, no interest or other equivalent for the use of the public money on deposite has been paid. The use of the public deposite constituted no part of the consideration for which the bonus was paid by that bank. This was fully demonstrated in the discussions of the last year, and I will not again enter upon the argument. The bonus was paid for the exclusive privilege of banking for twenty years, as expressly declared by the charter itself. The then Secretary of the Treasury, (Mr. Dallas,) in an official letter to a committee of Congress, expressly negatives the idea that any part of the bonus was paid for the use of the deposites. He states that, "independent of the bonus here proposed to be exacted, there are undoubtedly many public advantages to be drawn from the establishment of the national bank, but these are generally of an incidental kind, and (as in the case of the deposites and the distribution of the revenue) may be regarded in the light of equivalents, not for the monopoly of the charter, but for the reciprocal advantages of a fiscal connexion with the Treasury."

The Bank of the United States has had the use of the public deposites, at some times very large, without interest, and without any other consideration than the performance of those duties as a fiscal agent which the deposite banks now perform. There is no reason why the present deposite banks should be required to pay interest on the public money on deposite, that has not existed for exacting it from the banks of deposite from the adoption of the constitution in 1789 up to the time the deposites were removed from the Bank of the United States, in the fall of 1833. No better terms are asked for the present deposite banks than have heretofore been extended to the Bank of the United States, and all other banks of deposite, whilst they held the public money and acted as fiscal agents. The present deposite banks are required to perform, and are performing, all the duties and services which were lately performed by the Bank of the United States, or that were ever performed by any deposite banks. They are to credit all deposites as specie; to pay on demand in specie if required; to transfer the public money, at their own risk and expense, to any part of the Union; to perform the duty of pension agents; and to hold themselves constantly in readiness to pay out every dollar of the public deposites if demanded. For all these services, which would otherwise constitute a heavy charge upon the public, the only equivalent they receive is the use of the public money whilst it remains uncalled for. If interest is to be demanded, they will receive no equivalent whatsoever for the services they perform. It must be remembered that at one time Mr. Crawford, whilst he was Secretary of the Treasury, so far from demanding interest, found it necessary to stipulate with some of the Western banks that they should be permitted to hold a permanent deposite for a limited time, to induce them to hold the public deposites, and perform the duties required of them. No sound bank can agree to pay interest on a deposite subject to be called for any day, and to meet which it must

so shape its business as to be in a constant state of readiness. Care must be taken that such terms are not exacted of these deposite banks as will make it against their interest to have the custody of the public money, and drive those of them which are soundest and safest out of the service of the Treasury. Should interest be demanded, as proposed, the banks in the worst condition, and least to be relied on, will be most apt to agree to pay the highest rates. Should the most solvent banks refuse to take the deposites upon the terms proposed, and the Treasury should be forced to rely upon the agency of others less solvent, and disasters should follow, it will be seized upon as the highest evidence that the country must be thrown back upon a national bank, as the only safe and competent fiscal agent; and we should not fail then to be told, by the advocates of the present Bank of the United States, that their predictions of the last year had been verified.

In the present state of our revenue and public expenditures, there is not, nor is there likely to be, any large permanent surplus remaining unemployed in the treasury. The expenditures are likely to approximate, if not be equal, to the annual receipts into the treasury. Large deposites may be made in a bank to-day, and called for to-morrow to meet appropriations made by Congress, and the banks must be ready to pay, and to pay in specie if demanded. If, under the operation of our revenue laws, there should at any time be found in the treasury a permanent or accumulating excess over the public expenditures, then the proper remedy will be, not to charge interest upon such excess, but to reduce the taxes, and diminish the receipts into the treasury. Under the progressive and annual reduction of the rates of duties, as prescribed by our tariff laws, and under the varying and fluctuating amount of the appropriations made by Congress, from year to year, it cannot at present be foreseen that any such excess will exist.

At the commencement of the present year, though the receipts for the last quarter of the year of 1834 considerably exceeded the estimates, the available balance in the treasury did not exceed half a million. The amount of appropriations for the service of the year 1835 cannot be known until Congress adjourns. They may anticipate the whole receipts for the year. It will surely be time enough to provide for the payment of interest on any surplus in the treasury, if ever, when such surplus shall be found to exist.

If, in the fluctuations of the amount of receipts and of annual appropriations, there should hereafter be found a large temporary balance, not wanted for the public service, and which the Government could stipulate with the banks should not be called for for a given period of time; in that case, they might afford to pay a small interest. Since notice was given to the House of the intention to move this amendment, and since it had been printed and laid upon our tables, I have given some attention to the subject, and, in taking a view of the present state of the finances, have come to the conclusion that it is neither necessary nor proper for Congress to legislate prospectively concerning any large balance, but should wait until one actually occurred. In the present state of the treasury it is not perceived that it would be proper to adopt either the amendment proposed, or any other, requiring the payment of interest. There should, unquestionably, be at all times an excess in the treasury to some amount above the outstanding demands upon it, "so as not to drain every bank, and the treasury itself, dry to pay outstanding claims." An "excess might often be needed for convenient and distant operations," as well as to meet a deficiency in the receipts, below the estimates of any one year, which from various causes might happen, as also unforeseen contingencies. The amount of excess, always to be left in the Treasury, was fixed by the sinking fund act of 1817 at two millions. That act provided that, "whenever there shall be, at any time after an adjournment of Congress, in any year, a surplus of money in the treasury above the sums appropriated for the service of such year, the payment of which to the commissioners of the sinking fund will yet leave in the treasury at the end of the year a balance equal to two millions of dollars," then such surplus should be applied to the payment of the debt. If we adopt the principle established by this act, and it shall hereafter happen that a permanent surplus over two millions shall be in the treasury, then, as already stated, it should be reduced by repeal of taxes. Should there be temporarily such a surplus over two millions, then the utmost that could be safely done would be to charge a small interest on such banks as held the excess over two millions in the treasury, upon a stipulation with them that it would not be called for for six or twelve months, or some other specified time. If any thing be done prospectively, this is the most that can be safely done. But even this is unnecessary. It will be time enough to consider of such a proposition when any such surplus is found to exist in the treasury. With these views on this branch of the subject, I cannot consent to the proposition of the gentleman from Georgia, or any similar one, requiring the payment of interest by the deposite banks.

Whilst I am up, it may be well to notice some other propositions of amendment, which the House have been notified will be made to this bill, especially as I may not have another opportunity to address the House. A gentleman from Virginia [Mr. GORDON] has signified his intention to move the amendment to this bill which he presented and had printed by order of the House some days ago. That amendment provides that the "collectors of the public revenue," when the amounts collected are small, "shall be the agents of the Treasurer, to keep and disburse the same;" and that they shall receive an annual compensation. It provides, further, that, at places where the amount collected shall be large, "receivers" shall be appointed, "to be agents of the Treasurer," to keep and disburse the public moneys," and that they shall be paid an annual compensation for their services. The Secretary of the Treasury, in his report, has not overlooked the description of personal agency here proposed, but has submitted to Congress his views in relation to it. He states that "this kind of personal agency is, in his opinion, to be avoided in all practicable and safe cases, under our present system of selected banks; because it would render the system less convenient, less secure, and more complex, if not more expensive." * * * * * "Unless the States, and the United States, should both deem it proper gradually, and in the end entirely, to dispense with the paper system, and which result is not anticipated, the Government cannot escape occasional losses from that quarter, and can never hope to escape all losses from banks as fiscal agents, except by the employment, in their place, of other and individual agents, who will probably be found less responsible, safe, convenient, or economical." He concedes that it would be practicable to employ such agents, but does not recommend it, for the reasons stated in the paragraphs of the report which I have read, and because it would not, "in the present condition of things, be so eligible a system as the present one."

A corporation may be safer than any individual agent, however responsible he may be, because it consists of an association of individuals who have thrown together their aggregated wealth, and who are bound in their corporate character, to the extent of their whole capital stock, for the deposite. In addition to this, the Secretary of the

Treasury may require as heavy collateral security, in addition to their capital paid in, from such a corporation, as he could from an individual collector or receiver, which makes the Government deposites safer in the hands of a bank than it could be with an individual.

It may be well questioned whether the heaviest security which the most wealthy individual could give, could make the public deposite safe at the point of large collection. In the city of New York half the revenue is collected. Several millions of public money may be in the hands of a receiver at one time; and if he be corrupt, or shall engage in speculation or trade, and meet with a reverse of fortune, the loss sustained by Government would be inevitable. With ample security, as it was supposed, the Government lost a million or more in the tea cases, a few years ago. The losses in three cases alone, as already stated, in 1827 and 1828, when it was supposed ample care had been taken to secure the debt, amounted to near two millions. As, then, between the responsibility of a public receiver and bank corporations, as banks do exist, and are likely to exist, under State authority, the latter, upon the ground of safety to the public, are to be preferred.

Banks, when they are safe, recommend themselves to the service of the Treasury for other reasons.

1. The increased facility they possess over individual collectors or receivers, in making transfers of public money to distant points for disbursement, without charge to the public. Indeed, this is a service which individuals, to the extent of our large revenues, could not perform.

2. It may happen, in the fluctuation of the amount of revenue and expenditures, that there will be at some times a considerable surplus in the treasury; which, though it may be temporary, if it be withdrawn from circulation, and placed in the strong box of a receiver, the amount of circulation will be injuriously disturbed, by hoarding the deposite, by which the value of every article of merchandise and property would be affected. So that, inasmuch as we cannot anticipate or estimate what the exact amount of revenue or expenditure may be from year to year, there may occur an excess of revenue in the treasury, not immediately called for to be disbursed, which it would be very inconvenient to abstract from trade and circulation. Whilst the deposite is in a bank, the bank may use it, keeping itself at the same time ready to pay when demanded, and it is not withdrawn from the general circulation, as so much money hoarded and withdrawn from the use of the community.

If in the hands of receivers, they must either hoard it, by keeping it locked up in a strong box, or use it at their own risk in private speculation or trade, or they must, for their own security, and on their own responsibility, place it at last on deposite in banks for safe keeping, until they are called on by the Government for it.

This temporary use of the money on deposite in a bank constitutes the only compensation which the bank receives for the risk of keeping it, and for the services it performs. If receivers be employed, they can perform no other service than to keep the money, and must be paid a compensation from the Treasury.

The other provision of the amendment proposed to be offered by the gentleman from Virginia, which requires that the public revenue shall be paid "in the current coin of the United States," is unnecessary. No public creditor can now be paid in any thing but current coin by any of the deposite banks, if he demand coin. Nothing but coin, or the paper of specie-paying banks, readily convertible into specie, is now received in the payment of the public revenue.

The House has had notice of another amendment to be offered to the bill, and it is the last I shall notice. That amendment is, that the deposite banks shall be selected by the Legislatures of the respective States. In regard to this, it is enough to say that, if it be adopted, any State Legislature politically opposed to any administration, or in favor of the creation of a national bank, would have it in its power greatly to embarrass the Treasury, and render the fiscal operations of Government inconvenient, expensive, and unsafe. The Legislature of any State opposed to an administration, or desirous to bring the present system of State bank agency into disrepute, and to see it fail, so that the country might be forced back upon a national institution, might select their worst banks, or those the most inconveniently situated, and which would not or could not faithfully discharge the fiscal agency intrusted to them. If the States are to select the federal agents to be employed to receive, safe keep, and disburse, the public money, upon the same principle the States should be employed to appoint the public agents who collect the public money within their limits. The officer who collects and the person who keeps and disburses the public money in any State, are equally federal agents. If the object of the gentleman from Georgia, who has given notice of his intention to move this amendment, leaving to the States the right to select for the Treasury the banks of deposite, be to guard against the exercise or abuse of the patronage which is supposed to attach to the power of selection, he will find, by looking to the provisions of this bill, that it effectually guards these deposite banks, when once selected, from any such influence. When they shall be once selected, they may hold the public deposite, not only independently of the Treasury, but, if you please, against the will of the executive department of the Government, so long as they continue to perform the duties and services prescribed in the bill, and stipulated by them to be performed in their contracts, and so long as the public money may be considered safe in their custody. So long as they shall continue to discharge the duties and obligations imposed on them by their undertaking, and shall keep in a safe condition, the deposites cannot be removed by the executive authority. The power to discontinue them as public depositories is reserved to Congress, and no power, whilst Congress is in session, is reserved to the Executive, except to report to Congress for their action, if any of those banks have, in any respect, failed to conform to the provisions of the law, or have become, or are likely to become, in his judgment, unsafe. The executive power to discontinue exists only during the recess of Congress, and can then only be exercised for palpable violations of some one of the conditions upon which it receives the deposites, or because of alleged unsafety of the public funds; and, in that case, the facts and reasons upon which such discontinuance has taken place are to be reported to Congress at its next session. The power to make the selection in the first instance was given to the Secretary of the Treasury, because, from the nature of his duties, he was supposed to be more competent to make them than any other officer. The selection once made, and these banks are no longer the recipients of favors which depend on the executive will, and are under no obligations other than faithfully to perform the duties required of them by law, and which they have stipulated to perform. Should this bill pass, there can be no danger that the power of selection, which it vests in the Secretary of the Treasury, could be used as a branch of executive patronage; for the banks, when selected, would not be dependent on the Executive for the continuance of their agency. The present deposite banks would probably be continued; and, if so, it would be necessary to make but few, if any, new selections. If Congress fail to pass this, or some other bill regulating the selection and employment

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